

***External and Internal Security in the Australian
Colonies from their Founding to the End of the
Macquarie Era***

by

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Frontispiece

New South Wales Corps Officer's Coat 1805

In 1812 the British Army replaced the long-tailed officers' coat with shortened jackets

Courtesy Tasmanian Museum and Art Gallery collection (S1978.28)

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Abstract

This thesis considers external and internal security in the Australian colonies from the founding of New South Wales to the end of the Macquarie era. As history is a continuum, matters outside the nominated time frame of 1788 to 1821 are, where relevant, considered. This study is not a sociological history of British forces, nor concerned with their many roles, unless applicable. However, to appreciate European concepts of sovereignty which influenced Pitt's government in selecting secure colonial borders, consideration is given to the discovery of New Holland and New South Wales,

New South Wales lay athwart zones of strategic interest to the Dutch in the East Indies and the Spanish in the Pacific. Spanish claims were ignored, but to prevent international tension with Holland, Britain selectively prescribed the colony's western border. Additionally, with France, under the Bourbons and Napoleon, apparently planning settlements in Australia, Britain established outposts at Norfolk Island, Risdon Cove and Port Phillip. After 1815, possible Dutch and French intrusion in the region saw the establishment of outposts at Melville Island, Albany and Westernport. At Swan River in 1829, sovereignty was proclaimed and a settlement established, ensuring the whole of Australia became a British domain.

The garrisons' internal security role was to support and defend the civil power. From the arrival of the Second Fleet in 1790, until 1810, the New South Wales Corps carried out these duties (receiving historical notoriety for their insurrection in 1808). Thereafter, other regiments were posted to the colony for shorter periods. Tasks included guarding convicts, hunting bushrangers, and protecting settlers on the the spreading colonial borders. The Castle Hill Rebellion of 1804, was the most serious internal security situation faced. After the Napoleonic Wars, economic stringencies seriously limited the garrison's strength, yet the number of convicts transported significantly increased, placing a heavy load on the security forces.

Until 1810, internal security was weakened by a long running struggle for

domination between the military and civil powers. This commenced with Marine officers' dissatisfaction with Phillip's government and culminated with the New South Wales Corps mutiny against Bligh. From 1810, Macquarie established the primacy of the civil over the military power. By his departure in 1821, Sydney Cove had developed from a penal settlement into a colony ready for civic reforms resulting from the Bigge Inquiry. Maintenance of internal security allowed colonial development to take place, whilst threats to external security were the prime reason for the continent of Australia coming under British sovereignty.

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Definitions, Abbreviations, Military Ranks and Conversion Tables

Definitions:

all ranks: army personnel including officers.

The Horse Guards: refers to the office, in London, of the army's Commander-in-Chief, who was responsible to the King, whereas the **War Office** was the office of the Minister at War, and later 'of War', responsible to parliament.

other ranks: army personnel excluding commissioned officers.

rank and file: is an uncertain term. Sometimes used in reference to other ranks, or alternatively other ranks excluding sergeants. In *Historical Records of New South Wales, Volume 4*, page 937 (HRNSW, 4, p.937), a table refers to 'Rank and File' as private soldiers, not even including drummers. This contrasts with HRNSW, 3. p.640, where the term was applied to all other ranks.

Abbreviations

ADB, 1 (or 2)	<i>Australian Dictionary of Bibliography, Volume 1 (or 2)</i>
ADC	Aide-de-camp
Adj/Adjt	Adjutant
ADM	Admiralty (used in indicating a document's source)
AJCP	<i>Australian Joint Copying Project</i>
AOT	Archive Office of Tasmania, Hobart
AWM	Australian War Memorial, Canberra
BCTHS	<i>Bulletin of The Centre for Tasmanian Historical Studies</i>
Capt	Captain
Cpl	Corporal
Col	Colonel
Coy	Company
CSP	<i>Colonial Secretary Papers</i> (State Records New South Wales)
Gov	Governor
ed.	Edition/editor
HMS	His Majesty's Ship
HO	<i>Home Office</i> (used in indicating a document's source)
HRA	<i>Historical Records of Australia</i>
HRH	His Royal Highness
HRNSW	<i>Historical Records of New South Wales</i>
JRAHS	<i>Journal of Royal Australian Historical Society</i>
lb and £	Pound (weight) and Pound (British Sterling)
Lt/Lieut	Lieutenant
Ltd	Limited
Maj	Major
ML	Mitchell Library, Sydney
MML	<i>Manual of Military Law</i>
Ms	Manuscript
NAM	National Army Museum, London
NCO	Non-commissioned officer
NLA	National Library of Australia
No.	Number
offr(s)	Officer(s)
OR's	Other ranks
oz	Ounce (Weight)

p. or pp.	Page or pages
para	Paragraph
PRO	Public Records Office, London
Pt.	Part
QM	Quarter Master
Regt	Regiment
RN	Royal Navy (British)
SRNSW	State Records New South Wales, Sydney (formerly Archives)
Vol.	Volume
WO	War Office (used in indicating a document's source)

Order of seniority of military ranks referred to in this thesis:-

Officers	Major General
	Brigadier General
	Colonel
	Lieutenant Colonel
	Major
	Captain
	Lieutenant*
	Ensign (infantry) / Second Lieutenant (marines)*
	(* also referred to individually or collectively as subaltern(s))

Note: Captain-Lieutenant was a marine rank discontinued in 1803.

Other Ranks	Sergeant Major (now Regimental Sergeant Major)
	Sergeant (including Quartermaster Sergeant)
	Lance Sergeant
	Corporal
	Lance Corporal
	Drummer (not a 'rank' but often differentiated from privates)
	Private

Conversion Tables

Currency (British Sterling)

1 guinea	=	21 shillings
1 pound	=	20 shillings
1 shilling	=	12 pennies
1 penny	=	2 halfpennies or 4 farthings

Examples: 2 pound 5 shillings and 5 pence = £2/5/5

3 shillings and 7 pence halfpenny = 3s.71/2d.

For examples of sterling's relative value in the 1790's, see Chapter 5, footnote 59.

Length:	1 mile = 1.61 kilometres.
	3 feet = 1 yard = 0.914 metres

Area:	1 acre = 0.405 hectares
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Weight:	1 ounce = 28.3 grams
	1 pound = 0.454 kilograms

Introduction

This thesis will argue that wars, rumours of wars, and perceived threats to Great Britain's imperial power, or to colonial security, were the imperative which led to Australia becoming an undivided continent under British sovereignty. The American War of Independence (1775-1783), the French Revolutionary Wars (for Great Britain - 1793-1802), the Napoleonic Wars (1803-1815), which overlapped with the War of 1812 (1812-1814), all, in varying degrees, influenced the history of early Australia. During the war period from 1793 to 1815, and thereafter, actual or perceived threats from either France or Holland were a catalyst for the spread of British sovereignty, which by 1829, had embraced the entire continent of Australia. As this process took place, internal security provided by the military garrison, enabled the civilian power to govern, and providing the stability which saw the rough 'camp' at Sydney Cove develop into a substantial colony. Therefore, a study of external security implications and the parallel application of internal security, the dual subjects of this thesis, contribute to an understanding of how the hurried foundation of a small penal colony in 1788, in a remote and recently discovered land, unexpectedly initiated the remarkable expansion of British sovereignty over an entire continent.¹

The time frame for this thesis covers the naval governors, Captains Arthur

¹ *The Macquarie Dictionary*, ed.-in-chief A Delbridge, Dee Why, revised 1982, extracts from pp.1532, 622 and 913 respectively, for 'external', 'internal' and 'security'. These are defined separately, but these definitions linked together provide the meaning of the phrases "external" and "internal security" as applied in this thesis. "Security" being 'freedom from danger, risk, etc; safety: freedom from care, apprehension, or doubt; confidence: something that secures or makes safe; a protection; a defence: protection from or measures taken against espionage, theft, infiltration, sabotage, or the like'. To complete the meaning, the above definition is linked with either a definition of "external" as 'pertaining to or concerned with what is outside or foreign', or "internal" meaning 'internal affairs: pertaining to the domestic affairs of a country'.

Phillip, John Hunter, Philip King and William Bligh and the last of the autocratic governors, Lachlan Macquarie, the first army governor. By the time Macquarie departed in 1821, Sydney had developed into a thriving town, more appropriate to a substantial crown colony than a penal settlement. Van Diemen's Land was expanding outwards from Hobart and Launceston, and with a road over the Blue Mountains opened, New South Wales stood on the brink of pastoral expansion. Politically, after Macquarie's departure, future colonial governors coming to Australia, did so with gradually decreasing powers, as the principles of representative government were introduced by the British parliament. The formative period of absolute rule appropriate to a penal settlement had ended and social, economic and political development suitable to a crown colony, emerged.

History can seldom be compartmentalised by strict time frames such as delineated above. For instance, one factor which influenced the British government's security planning for the proposed settlement at Botany Bay, was the Treaty of Tordesillas of 1494, which indirectly affected the siting of the western border selected for the new colony. Again, during Macquarie's governorship, external security problems associated with the post- Napoleonic Wars period became matters of concern, but it was not until 1829, eight years after Macquarie's return to England that these were resolved. Whilst external security precautions were reactions to current, but usually long running international affairs, internal security involved such issues as the day to day guarding of convicts and the protection of settlers on the expanding borders of white settlement. But longer term factors also influenced internal security. When the British Parliament, in 1787, enacted legislation to establish a Court of Criminal Jurisdiction for Botany Bay, its implementation in the colony led to the Marine Officers disputing the ruling of the civil power in the colony, causing internal security concerns. Likewise, after Phillip's departure in 1791, the indulgence of the officers of the New South Wales Corps by their commander (then acting governor), Major Francis Grose, became a cause of continuing friction between the civil and military powers up to the time of the Corps' mutiny in 1808.

At times there was an overlapping between internal and external security concerns. In the case of the Castle Hill rebellion of 1804, it is argued that, an external imperial factor, the reduced establishment for British infantry units after the Peace of Amiens of 1802, was a major factor contributing to this rebellion. A further imperial link with this insurrection was that the majority of Castle Hill rebels were radicalised convicts, transported for their part in the 1798 Irish rebellion. Similarly, the often unsatisfactory internal security record of New South Wales Corps' guard detachments on convict transports is, in part, attributed to the stresses of recruiting during the French Revolutionary War. The 1797 mutiny on *Lady Shore* was exacerbated by this recruiting problem which had adverse internal and external security implications. In this context it is noted that the poor record of the Corps' guard detachments at sea, an important element of the unit's internal security duties, has been generally ignored by historians.

In considering the somewhat hurried planning for a settlement at Botany Bay, the British government took care not to offend the Dutch, who by right of discovery had a potential claim over New Holland. However, some Dutch rights were pre-empted, by including the Gulf of Carpentaria and Van Diemen's Land within the declared borders of New South Wales. With Spain in decline as a world power, their Toredillas Treaty claim to the Pacific was ignored in proclaiming the colony's loosely defined eastern boundary, intended to ensure any off-shore, yet to be discovered, islands, were also subject to British sovereignty. Additionally, the directive to Phillip to occupy Norfolk Island, as a defensive measure to counter any French claim by La Perouse, directly challenged Spanish Pacific pretensions. It is considered that suggestions by several historians that the island was settled primarily to provide raw materials for the British Royal Navy, are not supported by evidence.

The decision by Great Britain to establish a government controlled penal settlement at little known Botany Bay, half a world away, was at that time unique in

the annals of the British Empire. Despite the short preparation time, fortunately internal security procedures already existed, which made the concept a workable proposition. Security routines in transferring convicts from gaols and prison hulks to transport ships were based on those which had been employed during the private transportation of convicts to the former American Colonies. Also, practised procedures existed for the assembly of adequate transports, in this case suitably modified to secure convicts and with store ships fully laden with supplies for at least two years. This was accomplished in the short time frame assisted by experience gained in providing fleets for the transportation of troops, particularly in the recent American War. The only noteworthy mishap in security preparations was the deficiency of adequate ball ammunition for the marine 'battalion'. A case of gross negligence, which is attributed to the lack of supervision by the marines' commander, Major Robert Ross, before sailing. Adequate ammunition was essential to meet the marines' tasks to assist ships' masters with security in transit, and then provide internal and external security for the proposed settlement.

This dereliction of duty by Ross was possibly the beginning of an unhappy association between Governor Phillip and his lieutenant-governor. In the colony, relations deteriorated to the extent that the two men were unable to effectively work together. Friction quickly developed between the civil power, represented by the governor, and the military power, led by the lieutenant-governor who commanded the marines, and whose officers, from the founding of the settlement in 1788, objected to sitting as members of the criminal court. A serious incident occurred in 1789, when, with famine rampant, six marines, found guilty by the court of systematically robbing store houses, were executed. Thereupon, their company commander insisted that he would no longer accept being rostered for criminal court duty. It appears that Ross encouraged this attitude amongst his officers, which Phillip was forced to counter, otherwise the administration of colonial justice would have been thrown into confusion. On another occasion, Ross threatened his marines would use their bayonets if apprehended by the civil watch, as authorised by regulations Ross himself had previously approved. Other such instances

contributed to heightened confrontation, to the extent that the British government ordered the recall of the marines to England, and their replacement by a specially recruited unit, the New South Wales Corps.

In 1791, due to ill health, Phillip departed the colony, and was replaced by Corps' commander, Major Grose, who assumed the position of acting governor. He supplanted the authority of the civil power, by placing the administration of justice into the hands of the military, and during this time, his officers received favoured treatment receiving land grants and government support. Grose illegally allowed military officers (joined by their civilian counterparts) to trade, which they then monopolised in the settlement. With substantial profits being made, this became a significant feature of the early colony. In due course, London ordered the succession of naval governors, Hunter, King and Bligh, to stamp out this "rum trade". This was the primary source of what became a long running dispute between the civil and military powers.

The defining point in this battle for supremacy, saw Captain John Macarthur acting as spokesman for the army officers, persuade Hunter to capitulate to the Corps' wishes. It was agreed that four soldiers accused of mutiny, would not now face serious, even capital, charges, despite an earlier statement by Hunter to that effect. These men were the ringleaders of a riotous mob of soldiers who openly demolished ex-convict John Baughan's home. Instead of disciplinary action, Hunter agreed that the four men be paraded before their officers who would speak to them. He then failed to support his magistrate, William Balmain, who was prevented from investigating the incident because of pressure from the Corps' officers. This was a demonstration of the dominance of the military over the civil power. As such, it would have encouraged the officers into their belief that they could resist, with impunity, endeavours to curtail their monopolist activities. Ultimately Hunter, then King, were recalled to England because of agitation by the Corps and their supporters. King was replaced by Bligh, well known for his fiery temper and the *Bounty* mutiny. Selected as a disciplinarian likely to curb the power

of the monopolists, Bligh's subsequent opposition to the military officers was a source of annoyance to them and their civilian associates. This was the background to, but not the cause of, the Corps' mutiny against Bligh in 1808.

At the time of the Corps' rebellion, their commander in Sydney, who became leader of the insurgent government, was Major George Johnston. In his first dispatch to London (written by Macarthur) Johnston listed the various "reasons" which he claimed led to the mutiny. Surprisingly, amongst these, no reference was made to the military, and in particular to the six officers (discussed later) who were probably going to be charged with treason. Instead, other causes were advanced for the necessity for the Corps to arrest of Bligh, such as preventing an insurrection by the people, and saving Bligh from being 'massacred'.

Many historians have advanced explanations as to why the mutiny occurred. AGL Shaw for example considers the insurrection resulted from a personal feud between Bligh and Macarthur, with J Ritchie supporting this argument. HV Evatt refers to self-interest of the trading monopolists as a crucial factor. A Atkinson described the influence of British 'patronage networks' which provided the background to the rebellion. This short selection demonstrates the wide diversity of secondary opinions as to the cause of the rebellion. Interestingly, in 1810, Governor Macquarie advised London that while Bligh's government was for some unpopular, he had 'not been able to discover any Act of his [Bligh's] which could in any degree form an excuse for ... [the] Mutinous Proceedings against him'.² In reporting this, Macquarie had the benefit of interviewing witnesses as well as studying written records. He would have been aware of the many explanations for the insurrection which were later incorporated in historians' considerations of the cause, or causes, of the mutiny. This illustrates the complexity of motives associated with the insurrection of 1808.

Although many issues involving Bligh caused irritation to the colonial elite, it

² See below, Chapter 11, p.300, footnote 141 refers.

appears unlikely that these caused the military officers to risk being charged with the capital offence of mutiny. Why would Johnston have hazarded his neck to support Macarthur against Bligh in January 1808, when in December 1807, he had been one of four magistrates who committed Macarthur for trial? Without a doubt, Macarthur's manipulation of events at his criminal trial on 25 January 1808, provided the catalyst for the mutiny. At the start of the trial, this precipitated the refusal of the six officers, who made up the court, to accept Richard Atkins as judge-advocate. But it is argued that it was the likely regimental consequences of Bligh's intention of laying charges, probably of treason, against these six officers, which ignited the flame of mutiny. With the vital interests of the Corps at stake, Johnston, his officers and men marched on Government House. Historically, this was the culminating point in the struggle for supremacy between the civil and military powers.

In addition to this struggle for power, another theme runs through the study of internal security in the colony. While it appears to be stating the obvious, nevertheless, it was critical to the colony's survival that internal security had been maintained at all times. This provided the stability which allowed the penal settlement to develop into a crown colony. Even during the critical Castle Hill rebellion of 1804, discipline was maintained over the majority of convicts (those who rebelled were quickly brought back under control). There was a potential for serious disturbances during the Corps' mutiny, when on the evening of 26 January 1808, Bligh attempted to flee to the Hawkesbury. His intention was to raise a local militia to defend his government. Had he been successful, the Corps may have been locked into skirmishing with free settlers at the expense of maintaining a rigid discipline over the widely dispersed convicts. With the spirit of the Irish Rebellion of 1798, and of Castle Hill in 1804 very much alive, severe repercussions may have ensued. Additionally, major breaches of military discipline occurred which weakened internal security, such as the soldiers' riot when Baughan's home was destroyed and when Paterson fought his duel with Macarthur. Yet, these breaches did not reach a level of intensity which caused security to break down.

With the installation of Macquarie as governor, and replacement of the Corps by the 73rd Regiment, never again was the colony at risk. Nevertheless, difficulties associated with bushrangers especially in Van Diemen's Land, and to a lesser extent with Aborigines on the mainland, continued to cause internal security problems. But with the power of the civil government firmly established by Macquarie, the subordinate, but at times fractious military, although under strength for their task, maintained order in the colony.

External security concerns in the colony were generally directed towards countering various real or perceived threats of foreign settlement; initially in the colony, and later covering the remainder of New Holland. As a result, prior to any significant spread of settlement, the continent of Australia came under British sovereignty. This contrasts with the growth of the British Empire into India and northern America, where sovereignty followed occupation and settlement. But a paradox is noted regarding actual threats faced by the colony during the French Revolutionary and Napoleonic Wars. Some historians argue that following the explorations of James Cook and the French explorers, notably Louis de Bougainville, follow up exploration or settlement was suspended in the Pacific and around Australia during the War of American Independence. Likewise, it is considered that during the long almost continuous period of warfare between 1793 and 1815, no attempt was made against New South Wales, and actual threats did not exist, because the various enemy nations had more worthwhile strategic targets elsewhere. In this way, the wars helped guard British interests in Australia, rather than create a threat to external security. Even during the short Peace of Amiens, insufficient time prevented this situation from substantially altering.

The role of Britain's Royal Navy, although unseen by colonists, provided a protective security umbrella. Before the Battle of Trafalgar in 1805, the French and Spanish navies were drawn off in the struggle for possessions in the West Indies, or in an endeavour to meet and destroy the British fleet. After Trafalgar, the maritime

superiority of the Royal Navy was available to protect the far flung possessions of the British Empire. Nevertheless, individual merchant ships were always at risk from being attacked by French or American warships or privateers. This was illustrated by the capture of the colonial ship *Emu* when some of Lieutenant-Governor Thomas Davey's possessions were lost, and, of great disappointment to the male population of Van Diemen's Land, the ship's consignment of female convicts was released elsewhere. In hindsight, enemy action against New South Wales was improbable, but perceived threats caused very real concern, particularly to Governor King, when the 1800-1804 French expedition, commanded by Nicolas Baudin, was in Australian waters.

During the governorships of Phillip and Hunter, as a precaution before the start of the French Revolutionary War and during its progress, several minor defence works were erected. These took the form of small batteries intended to protect the close approaches to Sydney Cove, as opposed to what would have been a major task of guarding the entrance to Port Jackson. Geographic isolation rather than cannon was apparently considered the primary basis for defence of the settlement. Fort Phillip was designed to offer protection against internal insurrection as much as to oppose a foe landed at the Cove. Likewise, Hunter directed that construction of a new magazine be undertaken, not because of any external threat, but to increase security against the Irish prisoners sent to the colony after the 1798 rebellion in their homeland. Apparently for the inhabitants of Sydney, major excitement generated by the French Revolutionary War centred on observing the arrival of occasional Spanish prizes taken off the coast of South America.

Like Hunter, Governor King's initial concern centred on any internal threat posed by Irish Convicts. It was only after advice that a British Admiralty passport had been issued for Baudin's scientific expedition, that King became apprehensive over external threats to the colony in the form of French settlements. His concern is understandable, as in 1798 the improved shipping route to Sydney through 'Basses Strait' had been discovered. This waterway, with its added bonus of sealing wealth,

was of vital interest to the colony, and its domination by a foreign power could create a stranglehold over British shipping. King was alive to French interest in Australia, personally visiting La Perouse at Botany Bay in 1788. Then in 1792, Bruni d'Entrecasteaux had conducted extensive explorations in southern Van Diemen's Land including a survey of the magnificent anchorage *Riviere du Nord*, the Derwent River. Now a new French expedition was in the offing.

Fuelling King's anxiety was the British discovery of Port Phillip, which was formally claimed for Great Britain in February 1802. Despite this, it was feared in Sydney that the French could well have occupied this strategically placed port as Baudin's ships progressed through southern Australian waters. The final spur which caused King to take action to counter the French, happened immediately after the departure of Baudin's ships from Port Jackson. Lieutenant Colonel William Paterson reported there had been some talk by the French in Sydney of their intention of forming a settlement in Van Diemen's Land.

As a result of this report, King ordered a small party to chase Baudin, and reaffirm to him Britain's sovereignty over Van Diemen's Land and adjacent islands and waters. By 1803, on King's orders, and without waiting for approval from London, a small outpost was established at Risdon Cove on the Derwent River, to demonstrate British sovereignty. Meanwhile, King had written to London stressing his disquiet about the possibility of a French initiative at Port Phillip and also advised the potential for fisheries in those waters.

Independently of King's advice, Lord Hobart at the War and Colonial Office had become aware of the discovery of Port Phillip and the importance of its location. This information reached London during the Peace of Amiens (1802-1803), at which time Hobart was deeply suspicious of Napoleon's intentions. During this peace, two British naval vessels had been under orders to transport convicts to Sydney. To forestall French moves, one warship was diverted to carry a small expedition, under Lieutenant-Governor David Collins, to establish a settlement

at Port Phillip.

Subsequently, as he was having disciplinary problems with both his marine guards and convicts, Collins obtained Governor King's approval to relocate the Port Phillip settlement to the Derwent River. Collins argued that the New South Wales Corps soldiers at Risdon Cove would provide needed reinforcements to maintain order amongst his people. It is ironic that while these outposts were established at both Risdon Cove and Port Phillip to counter an external security threat by the French, because of internal security concerns Collins was authorised to transplant his settlement to Van Diemen's Land. By so doing, he considerably strengthened British sovereignty in that island. The French threat, and no other cause, was responsible for the initial lodgement of the British in Port Phillip and Van Diemen's Land.

After 1804, for the remainder of the Napoleonic Wars, and during the War of 1812 with the Americans, no perceived external threats developed to cause concern in the colony. However in 1810, and allegedly again in 1814, the French reportedly indulged in wishful thinking in relation to attacking New South Wales. In 1810, Napoleon directed that a French naval squadron capture Sydney. This was an unenforceable order as the French did not have an adequate naval capacity for such a distant challenge to British maritime supremacy. Additionally, late in the same year, with the British seizure of Il de France (Mauritius) and their earlier capture of the Cape Colony, Napoleon, as well as having no worthwhile navy, lost his last convenient naval base from which such an ambitious operation could be mounted. In 1814, an attempt by adventurer, Jorgen Jorgenson, to convince the British that the French were planning a descent on Port Jackson was treated with disdain. Nevertheless, Macquarie used this information to request (unsuccessfully) that his military establishment be increased. He did this not because of concern over the alleged external threat, but as an excuse to have his hard pressed garrison reinforced to meet internal security requirements.

Macquarie's bid to increase his colonial troop strength was primarily to counter bushranging which had reached crisis proportions, especially in Van Diemen's Land. After the failure of a proclamation by Macquarie offering pardon to the greater bulk of bushrangers in that island, Lieutenant-Governor Davey illegally declared martial law. Although this was a sensible measure, it was speedily rescinded by Macquarie's direction. Davey's replacement, Colonel William Sorell, conducted a well planned campaign against the bushrangers, still without eliminating them. However, his suggestion to establish places of secondary punishment was sound, and with London's approval, these were developed at Macquarie Harbour in Van Diemen's Land, and at Port Macquarie, on the mainland north of Sydney and Newcastle.

The later period of Macquarie's administration generally coincided with an outcry by some free settlers, who as 'exclusionists' demanded Macquarie's dismissal. The disciplines and forms of rule associated with a penal settlement, sat uneasily with the expectations of free settlers who came out to the colony. They neither wished to associate with former convicts, nor tolerate Macquarie's dictatorial manner which at times was considered irrational. As a result of this turbulence, London commissioned Judge John Bigge to conduct a wide-ranging inquiry which led to recommendations that the absolute power of governors be restricted by the introduction of reforms. These were implemented in 1821 when Governor Sir Thomas Brisbane replaced Macquarie. Nevertheless, despite criticism, when Macquarie departed, he left behind well established towns and the infrastructure essential for the economic future of the colony.

The Aborigines, dispossessed of their land, fought a determined guerilla campaign in Van Diemen's Land in the late 1820's to 1831, which is referred to as the 'Black War'. At no time between 1788 and Macquarie's departure in 1821 did such a level of conflict existed anywhere in the colony. Both Phillip and Macquarie made efforts to protect the Aborigines according to the standards of that era. Phillip attempted to learn the local tribes' language, and did not order retaliation when he

was speared. Macquarie, like Phillip, had a paternalistic attitude towards the Aborigines and opened his Native Institute for children. Later, he intended to settle dispossessed Aborigines on 10,000 acres of 'distant' country. But, in proposing this, Macquarie made no reference to those local tribes who could be displaced from their 10,000 acres so that a sanctuary could be created for Macquarie's already dispossessed Aborigines. Despite their earnest intentions, both governors, under circumstances which they considered justified, ordered retaliatory raids against particular tribes. While Phillip initially ordered six natives be captured and hanged, or killed and decapitated, Macquarie's orders resulted in fourteen men, women and children being massacred.

Under Phillip's Commission of April 1787, he was empowered to grant land to settlers and thereafter this system of grants, and later sale, of "unoccupied" land continued. Consequently as the borders of white settlement expanded, increasing numbers of Aborigines were dispossessed of their traditional lands, resulting in heightening antagonism between them and the settlers, and leaving a legacy of concern over "land rights". It was inevitable that clashes would occur on the expanding borders with both sides committing revengeful acts against the other.

The spread of white settlement came about under the protection of British sovereignty. Although a vast area of Australia had been initially claimed, by the time of the declaration of peace in 1815, only coastal strips radiating from Sydney, and in Van Diemen's Land inland from Hobart and Launceston were settled. It is itself a paradox that in the next fourteen years of peace, as a result of external security threats, the whole continent came under British sovereignty. Factors which caused this expansion were evident and remarked on by Macquarie while still governor. But the process of negating these threats was only completed in 1829, eight years after Macquarie's departure. Only two nations were responsible for British concerns. These were France, again a monarchy under the restored Bourbons, and Holland, which by 1815 had regained her independence from France, and had troops serving with the British at Waterloo. By 1816, the Dutch East Indies,

captured by the British during the war, had been returned.

For the Dutch, their immediate preoccupation was to reimpose their authority over the East Indies, now Indonesia. For them, a threat to their sovereignty and trade came from the British, who during the latter part of the war had exercised government over, and gained intimate knowledge of the region. There were two potential enveloping threats of concern to the Dutch. From the north, in addition to the British base at Penang, their establishment of a factory at Singapore was seen as an opening move to further increase British influence outwards from that island. Simultaneously, from the south, based on New South Wales, traders could attempt to move into the island chain with consequent loss to the Dutch, not only of trade, but erosion of their control of outer islands. On the other hand, Earl Bathurst, Secretary of State for War and the Colonies, was particularly concerned that the spread of Dutch influence over the waters of the Indies could result in maritime trade routes being denied to the British. Therefore, despite an Anglo-Dutch treaty about to be signed (delineating spheres of influence and stopping the powers unilaterally expanding), by Bathurst's direction, in 1824 there was an actual extension of British sovereignty in northern Australia which was demonstrated by the establishment of Fort Dundas. In 1825, the western boundary of New South Wales was extended further westward into New Holland, to guarantee sovereignty over the hinterland claimed in 1824. Thereafter, it was concern over France's intentions which resulted in the further expansion of British sovereignty.

From 1818, the first post-war French scientific expedition in Australian waters aroused colonial and British government suspicions of French intentions in the western or southern coastal regions of the continent. Later expeditions reinforced these fears, together with a growing realisation that it would be detrimental to British interests if another country established a lodgement in Australia. As a consequence, on orders from London, Governor Ralph Darling dispatched parties to form outposts at sites of potential French interest. During 1826, these were established at King George's Sound, now Albany, and at

Westernport, in today's Victoria.

Despite these British moves in 1826, reports still continued to be received from Paris that France was investigating the possibility of establishing a penal colony in New Holland. Consequently, Bathurst arranged the dispatch of a warship to New Holland to proclaim sovereignty over that region. Fortuitously, a commercially driven proposal was simultaneously being made in London for government approval to establish a non-convict settlement on the Swan River. Therefore, in addition to dispatch of the naval vessel, the War and Colonial Office approved the establishment of this proposed settlement. The result was that in May 1829, Captain Charles Fremantle proclaimed sovereignty over what had been New Holland and a few months later this sovereignty was confirmed by a settlement at Swan River.

In summary, despite hardship, convict rebellion, and insurrection by the New South Wales Corps, internal security was maintained over the convicts in the fledgling colony. This enabled the ordered development of the penal settlement to proceed towards a crown colony. This was despite a continual struggle between the civil and military powers to gain dominant authority during the period from 1788 until 1810. The civil power prevailed, which ensured that as a result of the Bigge Inquiry, the colony could commence moving towards representative government. Unfortunately, caught in the expansion of white settlement, the Aborigines suffered, as is still reflected to this day.

At the same time, conceived or real threats during both war and peace were responsible for the continent coming exclusively under British sovereignty. Until 1815, apart from a perceived French threat in 1801-1802, which resulted in the settlement of Van Diemen's Land, the land mass of Australia was not subjected to foreign expeditions which could have resulted in divided sovereignty over the continent. After 1815, several French and Dutch threats to imperial, as well as colonial interests, resulted in outposts being established in northern and western

Australia to demonstrate British sovereignty. By 1829, the British government still concerned over French intentions, proclaimed and demonstrated sovereignty over New Holland, thus ensuring British domain was established over the entire continent of Australia.

Chapter 1

External Security Considerations in Establishing Botany Bay

Surprisingly, for such a geographically isolated site as Botany Bay, planning for the establishment of this penal colony involved consideration of historical factors which had shaped contemporary European power politics and associated colonial aspirations. This was to ensure that the future British settlement was not placed in jeopardy by disputation with its distant neighbouring European colonies; the Dutch East Indies, and Spain's Pacific interests centring on the Philippines. Also, the intentions of Britain's traditional enemy, France, had to be carefully watched. Nevertheless, once the decision was taken to settle Botany Bay, despite somewhat hurried consultations by the British government,¹ reasonable precautions were put in place to ensure the external security of the proposed colony.

There was a complicated historical background the British government needed to consider in their deliberations. On 7 June 1494, Spain and Portugal signed the Treaty of Tordesillas which was sanctioned by the Pope in 1506. Under this treaty, Spain claimed the whole of the Pacific Ocean, and the Portuguese the Indian Ocean, the division being the antimeridian of the Tordesillas Line. This antimeridian was ultimately fixed at 134 degrees 40 minutes east of Greenwich (Figure 1).² Subsequently, the Dutch ousted the Portuguese from the spice rich East Indies³, which conveniently lay to the west of the Tordesillas antimeridian,

¹ See below, Chapter 2, for detailed references covering the planning period.

² OHK Spate, *The Spanish Lake, The Pacific since Magellan*, Vol.1, Canberra, 1979, pp.28-29. For 134 degrees 40 minutes, and Figure 1 map p.56. The Tordesillas meridian was 370 leagues west of the Cape Verde from pole to pole.

³ With exception of a foothold in Timor.

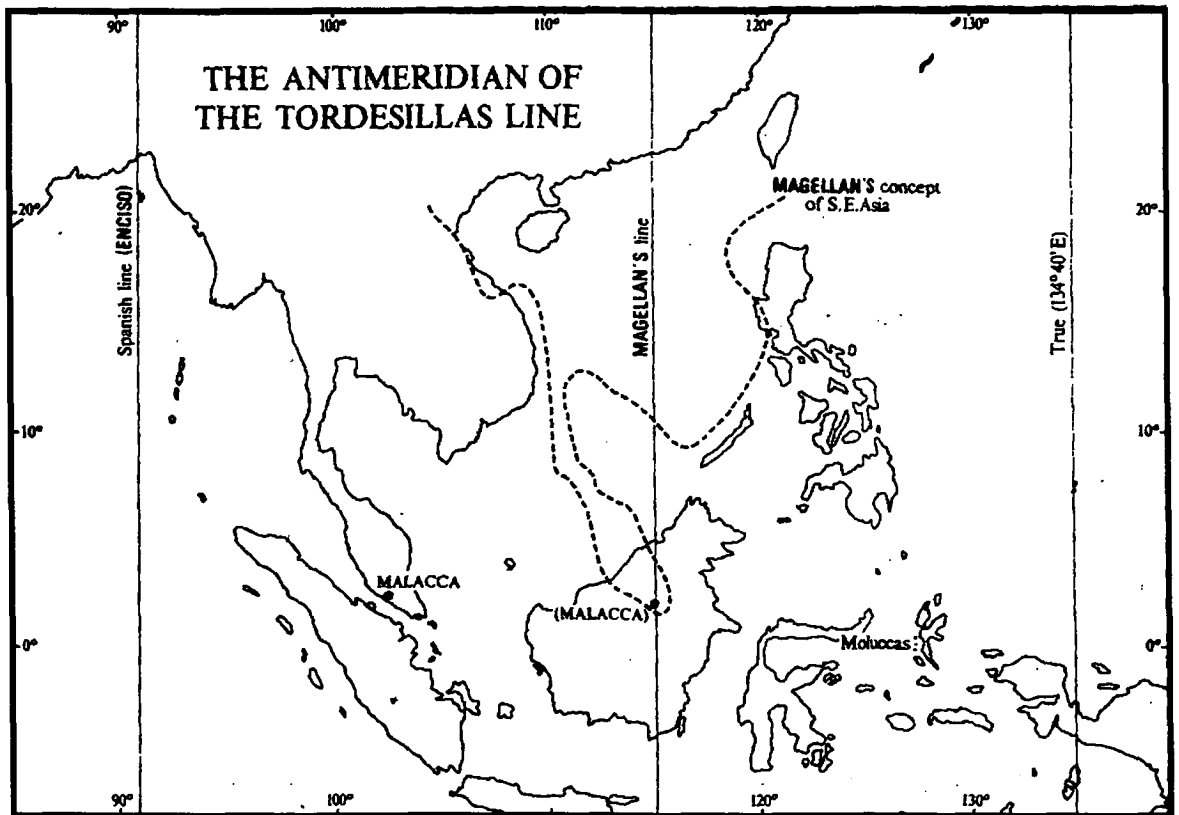


Figure 1: The Tordesillas Antimeridian

securing a monopoly over that trade. However, as Spain's Pacific interests were centred on Manila, based on trade between the Americas and Orient, their interests did not clash with those of Holland. Both nations maintained a de facto recognition of the antimeridian of the Treaty of Tordesillas.

Europeans had long believed that situated in these southern oceans was the world's fifth continent, *Terra Australis*, considered to be of potential commercial and scientific interest. The Spanish were first to claim what they thought to be this continent. In 1606, Pedro Fernandez de Quiros' colonising expedition discovered the New Hebrides, now Vanuatu, and with little justification Quiros thought he had reached *Terra Australis*, naming the land *La Austrialia* [sic] *duel Espiritu Santo*.⁴ During Quiros' short lived colony, he proclaimed:-

I take possession ... of all this region of the south as far as the Pole, which from this time shall be called Australia [Austrialia?] *duel Espiritu Santo*, with all its dependencies and belongings: and this for ever, and so long as right exists, in the name of the King, Don Philip, third of that name King of Spain⁵

During the colony's withdrawal, Luis Vaes de Torres' ship became separated, and having proved Quiros had only discovered islands, Torres continued with the original intention of discovering *Terra Australis*.⁶ As he passed through the strait between New Guinea and Cape York, which now bears his name, Torres 'coasted' along New Guinea's southern coastline failing to take possession of any part of Australia.⁷ Quiros' proclamation, and the Tordesillas Treaty's exclusive claim to the Pacific, thereafter remained Spain's justification for claiming *Terra Australis*.

From 1613, taking advantage of the "roaring forties" (the strong eastward moving wind patterns between latitudes 40 and 50 degrees south), Dutch East India Company ships were swept from the Cape of Good Hope across the southern Indian Ocean towards the Indies. In doing so, some ships' crews inadvertently

⁴ OHK Spate, *Spanish Lake*, pp.132-138.

⁵ RJ King, *The Secret History of the Convict Colony, Alexandro Malaspina's report on the British settlement of New South Wales*, Sydney, 1990, p.9.

⁶ OHK Spate, *Spanish Lake*, p.139.

⁷ JC Beaglehole, *The Exploration of the Pacific*, London, 3rd ed., 1966, pp.102-103, also map facing p.98, for Torres' route.

discovered and charted much of what came to be called New Holland, unaware that this was part of *Terra Australis*. Later, the English captain William Dampier, like the Dutch before him, was unimpressed by the inhospitable western coast lacking in promise of economic exploitation. Despite their right of discovery, at that time recognised by European powers as a criteria for the recognition of sovereignty, the Dutch made no claim, but continued their search for the fabled fifth continent.

In 1642, Abel Janszoon Tasman was instructed to locate the 'remaining unknown part of the terrestrial globe'. He discovered and annexed Van Diemen's Land (Tasmania) and charted some of 'Staten Landt,' (New Zealand) hoping that this was 'the mainland coast of the unknown South-land'.⁸ It remained for Captain Cook to prove New Zealand was separate from the continent which incorporated New Holland. In accordance with his Admiralty secret 'Additional Instructions', and by right of discovery, in August 1770, Cook took possession of the eastern seaboard of this land, as such action 'will rebound greatly to the Honour of this Nation as a Maritime Power, as well as to the Dignity of the Crown of Great Britain'.⁹ This land claimed by Cook became known as New South Wales.¹⁰ With Spain's declining power, that nation's claims were ignored when Cook took possession of his discoveries for the British crown.

As Cook did not sight Van Diemen's Land (claimed by Tasman), nor chart the Gulf of Carpentaria, his claim lay outside Dutch mapped parts of New Holland, over which the Dutch could have exercised sovereignty by right of discovery. Further, coastline charted by Cook lay far to the east of the antimeridian of Tordesillas and outside the region recognised by Spain as a Dutch sphere of influence. There was no potential for Anglo-Dutch animosity in Cook's claim.

⁸ JC Beaglehole, *Exploration of the Pacific*, pp.143-144 and 147-151. P Chapman, 'Tasmania and a Dutch Discovery', *Australian Natural History*, Vol.20, No.2,1980, p.40. The west coast of Van Diemen's Land was sighted on 24 November, and as recorded by Tasman, 'possession of the said land as our lawful property' was formally taken on 3 December 1642.

⁹ *Great Britain Admiralty, Secret instructions to Capt. Cook of 30th July 1768*, National Library of Australia (henceforth NLA), MS108/C, p.1.

¹⁰ *Historical Records of New South Wales, Volume 1, Part 1*, (henceforth HRNSW, 1, Pt.1), p.78 and pp.169-170, Note 75, for Cook's editor naming the land.

In the Seven Years War (1756-1763), France and England fought for dominance of world-wide empire and command of the seas which guaranteed imperial ambitions. At the Battle of Quiberon Bay, in November 1759, France's naval power was shattered. By the time the war ended, with the Treaty of Paris in 1763, France had lost Canada and her overseas empire was in ruins.¹¹ It is noteworthy that the war brought to public attention two men who influenced the pre-settlement phase of Australian history. These were Louis de Bougainville and James Cook. Bougainville, a colonel and *aide-de-camp* to the French commander Montcalm, had the mortification of seeing him die of wounds, and then the humiliation of negotiating the surrender of Quebec to the British. He vowed to restore France's prestige by giving 'to my country in the Southern Hemisphere what she no longer possesses in the northern one'.¹² Cook established his reputation as a navigator, by charting the treacherous St. Lawrence thus allowing Wolfe's army to negotiate the river and attack Quebec.

To restore her post-war imperial standing, France needed to re-establish her trade routes. In the event of a crisis, or war with the Dutch, replenishment and repair facilities at Cape Town would have been denied to French ships *en route* to her few remaining Indian trading posts, the Indies or China.¹³ France's Indian Ocean base at Port Louis, Ile de France, hard to enter, but easy to defend, had limitations as a major maritime base. Useful as an intermediate port, it lacked natural resources to support shipping concentrations or a large garrison.¹⁴ As a consequence, a series of naval expeditions was dispatched with a view to developing

¹¹ GS Graham, *A Concise History of The British Empire*, London, 1970, pp.78-79 and 82-83. RE and TN Dupuy, *The Collins Encyclopedia of Military History From 3500 B.C. to the Present*, London, fourth ed. 1993, pp.698-700 and 740-741.

¹² J Dunmore, *French Explorers in the Pacific, The Eighteenth Century*, Vol.1, Oxford, 1965, pp.58-59.

¹³ LR Marchant, *France Australe, a study of French explorations and attempts to found a penal colony and strategic base in south western Australia 1503-1826*, Perth, 1982, p.4, for strategic importance of Cape Town. Alliances and coalitions of powers were fluid during this period. In 1748, William of Orange opposed a French invasion of the Netherlands. During the War of American Independence, the Dutch-English War of 1780-1784, found the Dutch allied with France. This alliance was renewed in 1785. From 1793-1795, France fought and conquered Holland.

¹⁴ J Dunmore, *French Explorers*, Vol.1, p.35.

alternative sea routes. This was the underlying strategic aim to the declared scientific objectives of these expeditions.

J Dunmore points out that this revival of French interest, especially in the Pacific, was the result of the circumnavigation of the world by Bougainville from November 1766 to March 1769. He completed this voyage with the intention of making good his pledge to establish the French in the southern hemisphere. This led to expeditions by Marion du Fresne, Kerguelen with Comte de Saint Allourarn, the captain of his second ship, and later, La Perouse.¹⁵ Du Fresne's visit to Van Diemen's Land was the first of a series of visits by French expeditions, which ultimately led to alarm at Sydney Cove over French intentions, especially after the discovery of Bass Strait.

Doubt has been cast over a reported French claim to sovereignty over a part of Australia. Such a claim is referred to by LR Marchant and J Dunmore. In March 1772, Saint Allourarn, separated from Kerguelen's ship, anchored off Dirk Hartog Island, and reputedly annexed some, or all, of the west coast of Australia for France.¹⁶ As footnoted by Dunmore, details of the extent of annexation are not known as Saint Allourarn's ship's log 'contains little beyond navigational details', but some 1998 press articles offer apparent confirmation of this annexation.¹⁷ It was reported that at the northern tip of Dirk Hartog Island, a silver 1766 Louis XV coin was found under the lead seal of a broken bottle.

There is strong, but indirect, evidence to suggest Saint Allourarn did not make a claim on any part of the Australian continent. This opinion is based on instructions, issued in the name of Louis XVI, to d'Entrecasteaux, whose 'principal object ... [was] to search for the vessels under the command of Sieur de La Perouse'. In d'Entrecasteaux's 'Itinerary or Plan of Navigation', he:-

¹⁵ J Dunmore, *French Explorers*, Vol.1, p.108, also pp.95-96, sighting Queensland's Great Barrier Reef.

¹⁶ LR Marchant, *France Australe*, pp.50-52 and 58-67, for Saint Allourarn.

¹⁷ J Dunmore, *French Explorers*, Vol.1, pp.210-211 and Footnote 2, p.210. *Weekend Australian*, 24-25 January 1998, p.6 and [Hobart] *Mercury*, 23 January 1998, p.35.

will be informed from journal extracts that have been remitted to him with the present instruction, that in 1772, Sieur de Saint-Alouin [sic], commanding ... *Gros Ventre*, and returning from the southern land of Kerguelen, came ashore and anchored there; but since he did not possess the necessary instruments to fix the geographical position, he was not able to determine whether the *Neptune Oriental* map ... is accurate, or needs rectification. Sieur ... d'Entrecasteaux will determine this¹⁸.

It is considered that if Saint Allourarn had taken possession of part of Australia at this location, the event would have been notated here in d'Entrecasteaux's instructions. Indeed, Dunmore's comment that Saint Allourarn's log contained 'little beyond navigation details' would appear to bear out that Saint Allourarn was concerned about chart accuracy and not French territorial expansion. But, irrespective of whether France, as well as Britain, had made a claim on the Australian continent, the War of American Independence interrupted further moves by either country into that region. Nevertheless, at a later date, the revival of such a claim (even if suspect) could provide an excuse to the French to annex an area of New Holland, and be a further reason for British concern over French intentions.

In 1778, French and British enmity was reignited when France joined with the American colonies in their fight for independence. French naval forces were of critical importance in that war, and in 1779 were joined by those of Spain, and then in 1780, by Holland. This was a formidable naval coalition pitted against the British, now desperately engaged in a world wide struggle, which resulted in the loss of her American colonies. Peace was finally restored with Holland in 1784,¹⁹ just three years before the First Fleet sailed for Botany Bay.

Britain's humiliating loss of her former colonies in the War of American Independence, meant she could no longer transport convicts to these locations, where 'between 1769 and 1776 about 960 convicts a year ... [had been] sent'. The full dimension of the problem, which caused British gaols and prison hulks to

¹⁸ Bruny d'Entrecasteaux *Voyage to Australia & the Pacific 1791-1793*, ed. and translated by E and M Dukyer, Carlton, 2001, pp.284-285.

¹⁹ The Treaty of Versailles of January 1783, resulted in peace between Britain and the Franco-Spanish alliance. EH Kossmann, *The Low Countries 1780-1940*, Oxford, 1978, p.42, for the 'Fourth Dutch War' against the British, ending in 1784. The Stadtholder of House of Orange was held 'responsible for the total inertia of [the Dutch] army and navy' in that war (p.43), and this contributed to the rise to power of the vehement opposition 'Patriots', see below footnote 22.

overflow, can be gauged from numbers transported to the American colonies between 1719 and 1772, when 'perhaps 30,000 from the whole of England' were dispatched.²⁰ The post-war convict build-up was the imperative which forced the British government to search for alternative sites for a penal colony, 'either within his Majesty's dominions, or elsewhere'.²¹ After support waned for a convict settlement on Lemane Island, up the Gambia River in western Africa, investigation was ordered of Das Voltas Bay, in south western Africa. It was hoped that this bay would prove to be suitable as a penal colony, which could become a port of refreshment as an alternative to Cape Town on the British sea route to India. As the report on this stretch of African coastline proved negative, encouraged by the advice of Sir Joseph Banks, who had accompanied Cook in 1770, Botany Bay was selected.

While there was an urgent requirement to establish a new penal settlement, at the same time, Prime Minister Pitt's government was concerned by a 1785 treaty between Holland's 'Patriots' and France.²² This included an agreement between the two powers to mutually reinforce their respective naval strengths in the Indian Ocean. This alliance had the potential to deny Cape Town's facilities to British ships, critically interrupting the shipping route between England and her prized possessions in India.²³ With the Dutch Patriots negotiating to hand over the strategically important Ceylonese (Sri Lankan) naval base of Trincomalee to France, that nation would have had a chain of bases from the Cape, through Ile de France to Ceylon, giving France domination over the British on India's Coromandel Coast. Admiral H Richmond described this situation as reaching a 'crisis' by 1787.²⁴ Therefore, when it was decided to form a penal settlement at Botany Bay, which

²⁰ AGL Shaw, *Convicts and the Colonies A Study of Penal Transportation from Great Britain and Ireland to Australia and other parts of the British Empire*, Carlton, reprinted 1978, pp.34-35.

²¹ CMH Clark, *Select Documents in Australian History 1788-1850*, Sydney, 1970 reprint, p.28.

²² EH Kossmann, *The Low Countries*, pp.36, 39. The Patriots were a 'reformist party' of the 'urban patriciate'. They were determined to undermine the pro-British party of [Stadtholder] William V (pp.42-43). Prussia invaded Holland in 1787, defeated the Patriots, and restored the Stadtholder's party to power (p.58).

²³ A Frost, *Convicts and Empire A Naval Question 1776-1811*, Melbourne, 1980, p.77.

²⁴ H Richmond, *Statesmen and Sea Power*, Oxford, 1946, pp.163-164.

would be of only very limited value as a 'strategic outlier to India',²⁵ the British government was apprehensive lest that decision inflame tension between the pro-French government of Holland and Britain.

To avoid friction, the British government limited the western boundary of New South Wales to 135 degrees of longitude east of Greenwich, being the closest meridian outside, and to the east, of the Tordesillas antimeridian of 134 degrees and 40 minutes. This decision ensured Anglo-Dutch diplomatic relations remained relatively stable, with the supply emporium of Cape Town remaining open to ships in passage to and from India and later Botany Bay. More significantly, it removed the possibility of conflict, and of Dutch warships or privateers, based on Cape Town, or the Indies, striking against Britain's long maritime communication routes. Despite British care not to offend Dutch sensitivities, in October 1786, the Dutch Ambassador lodged a diplomatic protest with the British government. He stated that the British were planning a settlement in a 'territory which ... belongs to another country'.²⁶ Probably, his complaint was based on Tasman's claim of right of discovery to Van Diemen's Land, which was included within the boundaries of the proposed colony. Also, as Tasman in 1644, charted the Gulf of Carpentaria, which lies to the east of the 135th degree of longitude, it is conceivable that the Dutch Ambassador was also referring to this region, which by discovery, could also be claimed as Dutch territory.²⁷

In implementing the decision to settle Botany Bay, Captain Arthur Phillip, Royal Navy (henceforth RN)²⁸ was appointed 'Captain-General and Governor-in-

²⁵ A Frost, *Convicts and Empire*, pp.105-115, p.126 for Botany Bay 'off the shipping routes... [being] a second choice', p.129, 'outliner'. H Richmond, *Statesmen and Sea Power*, p.164. Links the establishment of Port Cornwallis on the Andaman Islands, and settlement of Botany Bay, as being influenced by this adverse strategic position for the British.

²⁶ *Historical Records of Australia, Series 1, Volume I*, (henceforth HRA, 1, 1), Sydney, 1914, pp.1-2, for Phillip's first commission of 12 October 1786. HRNSW, 2, p.737. Irish press report of 30 October 1786, for Dutch diplomatic protest.

²⁷ *The New Cambridge Modern History, Atlas*, Vol.XIV. eds. HC Darby and H Fullard, Cambridge, 1970, pp.284-285, map showing Tasman's route.

²⁸ During this period, the term "Royal Navy" has been noted as applying to British, Portuguese, Spanish, French and Dutch navies. In this thesis, it is used to refer to that of Britain only.

Chief' of the penal colony.²⁹ Prior to the departure of the transports now known as the "First Fleet", carrying administrators, guards, convicts and stores to Botany Bay, Phillip received two commissions signed by King George III. He received the first in October 1786, but this was replaced by a more detailed second commission granted in April 1787, shortly before the First Fleet sailed from England on 13 May 1787.

As noted by AGL Shaw, Phillip's first commission appointed him governor of a 'strictly military-penal operation'.³⁰ Indeed, following the granting of this commission, later the same month commissions were 'issued to subordinate officers necessary to the administration ... [which stated] that each was to carry out his duties according to the rules and disciplines of war'.³¹ The military nature of the future colony was indicated by the First Lord of the Admiralty, Lord Howe, who 'understood that the whole was to have been under Military Law, *Convicts* as well as *Soldiers* [Howe's emphasis]'. But as later pointed out to Howe by the Under Secretary of the Home Office, Evan Nepean, under British law, civilian convicts 'were not amenable to Military discipline'.³² Therefore, in 1787, to resolve this troublesome legal issue, Parliament passed an act³³ :-

which provided for the creation of a Court of Criminal Jurisdiction in New South Wales; on April 2nd, a more elaborate Commission was granted to Captain Phillip. ... [Additionally'] On April 2nd, also, a Warrant was issued for a Charter of Justice which made provision for Courts of Criminal and Civil Jurisdiction³⁴

By this action, the nature of Phillip's status as governor was changed 'from that of

²⁹ HRA, 1, 1, p.2. This was the title granted in the second commission, in the first, he was styled as 'Governor' (p.1).

³⁰ AGL Shaw, '1788-1810', *A New History of Australia*, ed. F Crowley, Melbourne, 1974, p.4, for two commissions to Phillip, of October 1786, and April 1787. For wording, HRA, 1, 1, pp.1-2 and 2-8 respectively.

³¹ ACV Melbourne, *Early Constitutional Development in Australia, New South Wales 1788-1856, Queensland 1859-1922 (with Notes to 1963 by the Editor)*, ed. RB Joyce, St. Lucia, 2nd ed. 1963, pp.3-4. Officials were: the lieutenant-governor, deputy judge-advocate, chaplain, principal and assistant surgeons.

³² A Atkinson, 'The first plans for governing New South Wales, 1786-87', *Australian Historical Studies*, Vol.24, No.94, April 1990, p.36.

³³ HRNSW, 1, Pt.2, pp.67-70, for 27 George III, 1787.

³⁴ ACV Melbourne, *Early Constitutional Development*, p.4. HRNSW, 1, Pt.2, pp.61-67, for second Commission and 70-76 for 'Letters Patent Constituting The Courts Of Law'.

a military to that of a civil one'.³⁵ Likewise, the appointed judge-advocate for the marine garrison, Captain Collins, received a second commission as judge-advocate 'in the settlement'.³⁶ But, as pointed out by Atkinson, while New South Wales became, strictly speaking, 'a colony and civil Government', nevertheless 'Elements of military authority remained'.³⁷ As a result, a potential was created for friction between the civil and military powers, as indeed happened on many occasions in the earlier colonial period.

Phillip's two commissions defined the territory over which he was to govern. This extended from Cape York in the north, to South Cape, the southern extremity of Van Diemen's Land, now Tasmania. The western and eastern boundaries were described as:-

all the country inland westward as far as the one hundred and thirty-fifth degree of east longitude reckoning from the meridian of Greenwich including all the islands adjacent in the Pacific Ocean within the latitudes aforesaid of [Cape York to South Cape].³⁸

For a penal settlement, this was a vast territory incorporating 'more than a third of the continent',³⁹ giving rise to a supposition that with the loss of the American colonies, the government found it 'mentally gratifying to feel a vast area was being acquired'. Another opinion was that 'the presence of a French expedition [led by La Perouse] in southern waters may have suggested to the British Government the possibility of competition in colonisation'.⁴⁰ In the latter case, this would have represented an external security concern in the founding of New South Wales.

Despite arguments that strategic needs of empire may have contributed to the settlement of Botany Bay, there remained the clear political imperative of the need to ease the strain on the nation's gaols. A later Secretary of State for War and the

³⁵ A Frost, *Arthur Phillip 1738-1814 His Voyaging*, Melbourne, 1987, p.148.

³⁶ J Currey, *David Collins A Colonial Life*, Melbourne, 2000, p.52.

³⁷ A Atkinson, 'The first plans', p.40.

³⁸ HRA, 1, 1, p.2. J King, 'In the Beginning ...', *The Story of the Creation of Australia From the Original Writings*, South Melbourne, 1985, p.126, for a similar description in a photographic copy of Phillip's original, and much amended, Instructions, pp.125-148.

³⁹ A Atkinson, 'The first plans', p.29.

⁴⁰ HRA, 1, 1, p.711, Commentary Note 1.

Colonies, Earl Bathurst, in 1819, made this point in writing to Commissioner Bigge. Botany Bay was not 'established with any view to Territorial or Commercial Advantages ... [but] as Receptacles for Offenders in which Crimes may be executed [expiated] at a distance from home'.⁴¹ M Gillen forcefully argues this case, noting 'It is very doubtful ... if British officials had a clear idea of what was intended for and hoped from the settlement at Botany Bay beyond the rush to get rid of the convicts'.⁴² While she quotes Admiral Howe's December 1784 comment that he saw little advantage 'in commerce [flax, timber or an alternative route to China] or war' from locating a colony at Botany Bay, she also quotes a comment by Sydney, used by A Frost to support his naval oriented arguments. Namely, that a settlement at Botany Bay was 'a means of preventing the emigration of Our European Neighbours [France] to that Quarter'.⁴³ Providing a counter view to Frost, Atkinson states that 'despite the disadvantages' of a distant colony, for the Home Office under Sydney's direction, it had two advantages. Because of its remoteness, it would be hard for convicts to find their way back to England, and secondly, 'it was useless', making survival the sole aim of the convicts.⁴⁴ It is beyond the scope of this thesis to enter into further discussion on the origins of British settlement of Australia, but, the evidence suggests that the primary aim of founding Botany Bay was to dispose of unwanted convicts. Nevertheless, as discussed below, strategic concerns regarding French intentions in Australia, including Norfolk Island, were considered as external security risks for the proposed colony.

Before the departure of the First Fleet in 1787, British suspicion of French intentions in the South Pacific, were strengthened by reports of another French expedition to the region. In 1785, inaccurate intelligence regarding this expedition reached London. Commanded by Count de La Perouse, two ships were due to sail

⁴¹ HRA, I, 10, p.4.

⁴² M Gillen, 'The Botany Bay decision, 1786: convicts not empire', *The English Historical Review*, Vol.97, 1982, pp.762-763.

⁴³ M Gillen, 'Botany Bay decision', pp.744 and 756 respectively.

⁴⁴ A Atkinson, *The Europeans in Australia A History, volume one The Beginning*, Melbourne, 1997, p.58.

in three months, and it was incorrectly believed by the British that the intention was to establish a settlement in New Zealand. This well equipped expedition was recognised within France as being of national significance, with strong backing from King Louis XVI, who interested himself in its planning.⁴⁵ On reaching the Russian outpost on the Kamchatka Peninsula, La Perouse received changed sailing instructions stating:-

The King desires ... you may look over the new English settlement which should have been formed by the time you go to the eastern coast [of Australia], but His Majesty intends you stay no more than absolutely necessary.⁴⁶

RJ King sums up this additional task for La Perouse as 'simply an intelligence gathering operation'.⁴⁷

Because intelligence regarding La Perouse's proposed voyage was combined with knowledge of the renewal, in the same year, of the Franco-Dutch alliance, Britain's strategic sensitivities were aroused.⁴⁸ As a counter-measure, the British considered precautions were necessary to prevent the French claiming or settling Norfolk Island, situated about 900 miles north east of the proposed settlement site at Botany Bay. Should hostilities occur, it was deemed feasible that Norfolk Island could provide an offshore base from which Franco-Dutch or even Spanish operations could be mounted against Botany Bay. As a defensive measure to counter this, Phillip's Instructions directed that:-

Norfolk Island situated in the lat. [blank], and long. [blank] east from Greenwich about [blank], being represented as a spot which may hereafter become useful, you are, as soon as circumstances will admit of it, to send a small establishment thither to secure the same to us [King George III], and prevent its being occupied by the subjects of any other European power;⁴⁹

About eight months later, La Perouse noted in his log that his ships sailed

⁴⁵ LA Triebel and JC Batt, *The French Exploration of Australia with special reference to Tasmania*, Hobart, undated, but late 1950's, pp.17-18.

⁴⁶ RJ King, 'What brought Laperouse to Botany Bay?', *Journal of the Royal Australian Historical Society* (henceforth *JRAHS*), Vol.85, Pt.2, December 1999, p.144 and Note 15, p.146, French directive of December 1786.

⁴⁷ RJ King, 'What brought Laperouse?', p.145.

⁴⁸ AGL Shaw, '1788-1810', p.3 and footnote 7.

⁴⁹ *HRNSW*, 1, Pt. 2, p.89.

'From Norfolk Island to within sight of Botany Bay', which he entered in January 1788 (Figure 2).⁵⁰ Surgeon Arthur Bowes, aboard *Lady Penrhyn*, recorded the reaction to sighting La Perouse's ships, 'some supposed them to be two large English ships ... others that they were Dutch ships com'g after us to oppose our landing.'⁵¹ Marine Captain-Lieutenant Watkin Tench, wrote 'The astonishment of the French at seeing us had not equalled that we had experienced'.⁵²

Phillip reacted quickly to La Perouse's unexpected arrival at Botany Bay. While he had only commenced landing the greater part of the marines and convicts at Sydney Cove on 27 January 1788, on 1 February, Lieutenant Philip Gidney King, RN, wrote that Phillip 'signified his intention of sending me to Norfolk Island with a few people & stock to settle it. Lieut Ball of ye Supply was ordered to receive the Stores on board necessary for that purpose.' Next day, Phillip ordered King to take 'a Cutter for Botany Bay, to visit Monsieur De La peruse on the part of Governor Phillip & to offer him whatever he might have occasion for'.⁵³ Thirteen days later, the Norfolk Island colonising party consisting of King as 'Superintendant [sic] and Commandant'⁵⁴ and twenty one others,⁵⁵ departed in HMS *Supply*. Phillip probably expected La Perouse's dispatches from Sydney to report on this new settlement at Norfolk Island, stifling any further French designs on that island. Phillip's action in ordering the occupation of Norfolk Island, is an example of an historical continuum of pre-settlement factors resulting in the post-settlement implementation of external security precautions.

Despite Phillip's haste to occupy Norfolk Island, there remains disputation as to why Phillip's Instructions ordered him to settle the island in the first place.

⁵⁰ Triebel and Batt, *French Exploration of Australia*, p. 24 and Figure 2 - map between pp.32-33.

⁵¹ HRNSW, 2, p.391. Journal entry of 24 January 1788.

⁵² W Tench, 1788, *Comprising A Narrative of the Expedition to Botany Bay and A Complete Account of the Settlement at Port Jackson*, Melbourne, 1996, p.39. M Austin, 'The Early Defences of Australia', *JRAHS*, Vol.49, Pt.3, November 1963, p.190, for the marine rank of "captain-lieutenant", abolished in 1803.

⁵³ *The Journal of Philip Gidney King: Lieutenant, R.N. 1787-1790*, Sydney, 1980, p.37.

⁵⁴ HRA, 1, 1, pp.32-34. Phillip's commission and instructions to King of 12 February 1788.

⁵⁵ *Journal Philip Gidney King*, p.40. Party consisted of: a master's mate, surgeon's mate and an adventurer, and from HMS *Sirius*, two marines and a seaman; nine male and six female convicts.

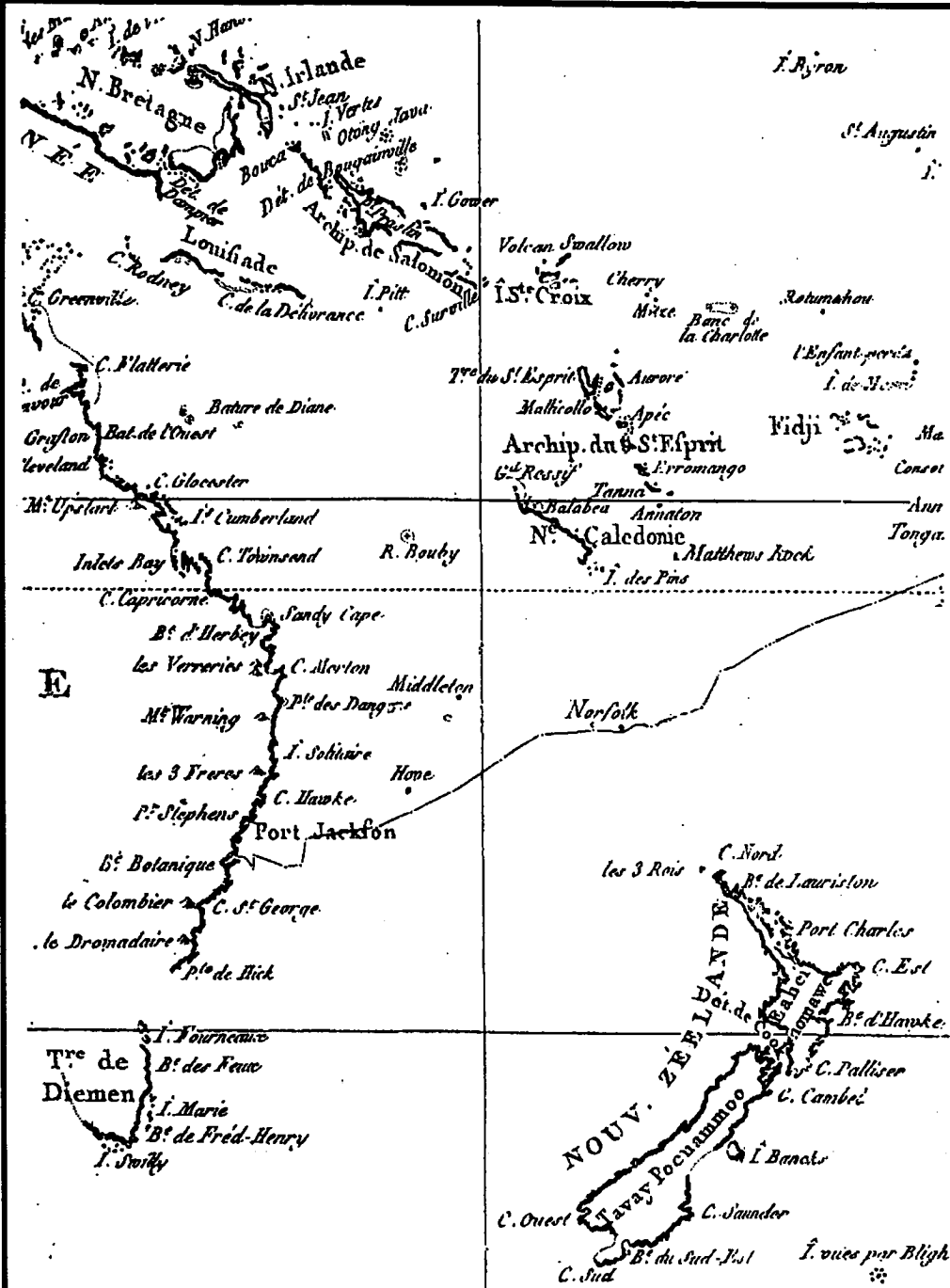


Figure 2: La Perouse's passage past Norfolk Island to Botany Bay

Being a section of La Perouse's chart published in 1797, showing part of the south-west Pacific known at the date

During his second voyage, in October 1774, Cook in recording his discovery of Norfolk Island noted:-

We found ... kin to New Zealand, the Flax plant ... but the chief product of the isle is Spruce Pines which grow here in vast abundance and to a vast size ... My Carpenter tells me that the wood is exactly of the same nature as the Quebeck [sic] Pines. Here then is a nother [sic] Isle where Masts for the largest Ships may be had.⁵⁶

So scant was the supply of timber, that once American supplies were cut off by the American War of Independence, the sea keeping ability of both the West and East Indian Royal Navy fleets had been limited by a lack of masts and spars, as well as cordage and sails manufactured from flax. After a naval battle on 6 July 1782, Admiral Hughes reported to London that his East Indian fleet required amongst other items 'sixteen lower masts, seventeen topmasts, eighteen lower and topsail yards and four bowsprits'.⁵⁷

Frost argues that in the post-war period, the British Admiralty was so concerned over availability of suitable timber and flax from within the British Empire, that, based on Cook's report, they required the supplies of Norfolk Island be guaranteed by its settlement.⁵⁸ Richmond supports this argument concentrating on the stranglehold that Russia had over such essential naval stores.⁵⁹ While the requirement for suitable timber may appear self-evident, in no document was this stated as a reason for Phillip to occupy Norfolk Island. Likewise, the island was not settled as a result of any directive to secure its flax supply. However, possibly as a result of Admiralty instigation, Phillip in his instructions was directed that:-

⁵⁶ A Frost, *Botany Bay Mirages, Illustrations of Australia's convict beginnings*, Carlton, reprinted 1995, p.73.

⁵⁷ A Frost, *Botany Bay Mirages*, p.66.

⁵⁸ A Frost, *Botany Bay Mirages*, pp.62-75. AGL Shaw, '1788-1810', p.3, refutes the proposition. G Blainey, *Tyranny of Distance, how distance shaped Australia's history*, South Melbourne, first Macmillan ed. 1975, pp.16, 18-19, argues that because of flax and timber 'Norfolk Island seems to be a key to the plan to send convicts to Australia.' (p.18). It is conceivable that in the Heads of a Plan (HRNSW, 1, Pt.2, pp.17-20), copied to the Treasury (p.14), the mention of cultivation of New Zealand flax and timber suitable for 'masts and ship timber' (p.19) was offered as much as an inducement for the Lords Commissioners to fully support the scheme of transportation, as it was an opinion on suitable supply sources for 'our fleets in India'.

⁵⁹ H Richmond, *Statesmen and Sea Power*, pp.166-167.

advantages may be derived from the flax-plant which is found in the islands not far distant from the intended Settlement, not only as a means of acquiring clothing for the convicts and other persons who may become settlers, but from it's superior excellence for a variety of maritime purposes ... attend to its cultivation⁶⁰

This quotation regarding flax, but not timber, suggests Admiralty interest in vetting all likely sources of supply for naval use. As Shaw notes, an examination of the potential for flax supplies was 'eminently sensible' but did not provide motivation for establishing Botany Bay.⁶¹ Although Cook had noted flax growing on Norfolk Island, there is no evidence to suggest that the prime reason for its occupation was anything other than strategic concern to deny an off-shore base to a potentially hostile power.

While the British government endeavoured to protect their planned penal settlement from external security threats; once established, Botany Bay's harbour could then possibly be seen by other powers as a forward British base from which future maritime operations could be launched. Such a concept was incorporated in the first unofficial proposal for a settlement in New South Wales, written by an imperial enthusiast, who as a midshipman had sailed with Cook to Botany Bay.

James Matra, in August 1783, as a part of his lengthy paper,⁶² wrote:-

The place which New South Wales holds on our Globe, might give it a very commanding Influence in the policy of Europe. If a Colony ... was established ... & if we were at War with Holland or Spain, we might very powerfully annoy either ... We might with a safe & expeditious Voyage, make Naval Incursions on Java, & the other Dutch Settlements, & we might with equal facility invade the Coasts of Spanish America, & intercept the Manilla Ships, laden with the Treasures of the West. This check which new South Wales would be in time of War, on both these Powers, make it a very important Object, when we view it in the Chart of the World, with a Political Eye.⁶³

In event of war with Holland or Spain, an external threat to Botany Bay could be envisaged. These nations, possibly anticipating British offensive

⁶⁰ HRNSW, 1, Pt.2, p.89.

⁶¹ AGL Shaw, 'The hollow conqueror and the tyranny of distance', *The founding of Australia the argument about Australia's origins*, ed. G Martin, Sydney, 1978, p.126.

⁶² J King, *In the Beginning*, pp.12-20, for eight and a half handwritten pages.

⁶³ J King, *In the Beginning*, p.18, quotation from original document.

operations emanating from Port Jackson, could consider a pre-emptive strike on Sydney as being worthwhile. A minor example of Sydney's utilisation as a forward base, and port which also offered 'refreshment to ... crews', took place after the colony was established. This was the planned expedition against the disputed Spanish possession of Nootka Sound, on the west coast of North America, which, in 1790, London ordered Governor Phillip to support.⁶⁴ After the foundation of the colony, defensive measures were taken against the possibility of an external threat. These took the form of mounting relatively insignificant batteries to guard the entrance to Sydney Cove.⁶⁵

To summarise, precautions taken by the British government in planning the colony at Botany Bay proved adequate. These were designed so as not to unduly antagonise the Dutch, while at the same time, take defensive measures at Norfolk Island to pre-empt possible Franco-Spanish moves. As a result, the colony was established with minimum risk to its external security.

⁶⁴ *HRA*, 1, 1, pp.161-163. Grenville to Phillip of February 1790, 'refreshment' p.163.

⁶⁵ See below, Chapter 3, for details.

Chapter 2

The First Fleet

The First Fleet which transported convicts to New South Wales was unique. Prior to the War of American Independence (1775-1783), private contractors had performed the transportation role after sentence, conducting in effect a transportation “trade” with America, selling the labour of convicts for profit. Contractors provided their own onboard security. Once a consignment of convicts had been signed over to the contractor’s agent, the British government was no longer involved.¹ The former colonies in America, which became the United States of America, having prohibited British convict transportation, forced the British government, to seek alternative destinations for convicts. After ‘having sought in vain upon the African coast’², the decision was made to establish a penal colony at Botany Bay. For the British authorities, this was the first time they would be responsible for securing and transporting convicts to a distant shore, together with sufficient food and supplies for at least a two year period. On arrival a permanent settlement was to be established under a stable administration supported by the military power, namely a marine battalion. The unusual nature of the enterprise was summed up during the First Fleet’s voyage by the colony’s judge-advocate designate, marine Captain David Collins, who wrote ‘All communication with families and friends now cut off, they were leaving the world behind them’.³

While the concept of government responsibility for every phase associated with the First Fleet was theoretically novel, practised administrative systems already

¹ W Oldham, *Britain’s Convicts to the Colonies*, Sydney, 1990, pp.1-32.

² D Collins, *An Account of the English Colony in New South Wales*, Christchurch, undated, p.5.

³ D Collins, *An Account*, p.9.

existed which could be adapted for organising such a large venture, with the Treasury and Navy Board experienced in administering the transporting of troops to and from Great Britain.⁴ This machinery was utilised in tendering for, and inspecting vessels, and victualling them to carry convicts and stores to New South Wales.⁵ Similarly, transportation to America had given the court, gaol and port authorities, under Home Office direction, workable procedures for shipping convicts overseas. Also American transportation, together with the infamous slave trade, had given Britain's mercantile marine experience in maintaining security over prisoners at sea, while the Royal Navy was experienced in imposing discipline over crews supplemented by press gangs and from gaols. These capabilities were utilised to implement the government's decision to establish the new colony. Although interdepartmental planning had already commenced, on 18 August 1786, the Secretary of State for Home Affairs, Lord Sydney, was formally directed to advise Treasury that royal approval had been given for the expedition to New South Wales.⁶

Surprisingly, the First Lord of the Admiralty, Lord Howe, wrote to Sydney on 3 September 1786, commenting that he would not have selected Captain Arthur Phillip, RN, 'for a service of this complicated nature' as naval commander of the fleet to Botany Bay, and then as colonial governor. If, as Howe inferred, there had been no prior consultation with him, nor with his department, over the Home Office's appointment, he had every right to be waspish.⁷ Phillip's unusual qualifications, while appreciated by the Home Office, did not appeal to the gruff Howe, probably because following the Seven Years War, Phillip's 'connexions

⁴ HRA, 1, 1, p.730, Commentary Note 62. The Admiralty was responsible for naval policy and the Navy Board was responsible for chartering transports, victualling, and transportation of convicts. The Navy Board controlled the Commissioner of Victualling, and Transport Commissioners.

⁵ C Bateson, *The Convict Ships 1787-1868*, Glasgow, 1969, p.10. Commissioner of Victualling's responsibilities were to let and supervise contracts for the voyage and provision of supplies for the colony; pp.12-18 for Transport Commissioners' role, including appointment of the Naval Agent who represented the Commissioners during preparations to sail and on the voyage.

⁶ HRNSW, 1, Pt.2, p.14. To Treasury of August 1786. Sydney, at the Home Office, had overall responsibility for transportation.

⁷ HRNSW, 1, Pt.2, pp.22-23. A Frost, *Arthur Phillip 1738-1814 His Voyaging*, Melbourne, 1987, p.142, for Howe commenting 'waspishly'.

[sic] with the British navy in the next fifteen years were largely nominal'.⁸

Nevertheless, two men who knew Phillip, commenting upon his attributes, noted he was 'made on purpose for such a trial of Abilities'.⁹

Apart from probable preferment due to patronage, there were several factors which fitted Phillip for command of the First Fleet, and as governor of the future colony. From 1774-1778, Phillip had successfully served as a captain in the Portuguese navy, where his duties included securing and transporting convicts from Lisbon to Brazil. During this time Phillip had operated mainly in South American waters, through which the projected First Fleet would have to transit, relying on friendly relations at Rio de Janeiro for resupply. Additionally, after the War of American Independence in 1784-1785, Phillip served as a spy in France, reporting on French naval rearmament. He was then controlled by Under Secretary Evan Nepean of the Home Office, who continued to hold that appointment in 1786.¹⁰ Thus Phillip's internal security experience in transporting convicts, was supplemented by an exposure to European opinion on external affairs and an appreciation of French naval capabilities.

The manning of the First Fleet, together with providing civil and military personnel for the future administration of New South Wales, was a naval responsibility. This included making arrangements for raising a special marine force, as stipulated in Sydney's letter of 18 August 1786. In this he directed that marines were 'not only to enforce due subordination and obedience [at Botany Bay], but [were] for the defence of the settlement against incursions of the natives'.¹¹ While control of the convicts was apparently considered of prime internal security importance, the possibility of an Aboriginal threat was still recognised in London. This was despite Sir Joseph Banks' answer to a question at

⁸ *Australian Dictionary of Biography, Vol.2 : 1788-1850, I-Z* (henceforth ADB, 2), London, 1967, p.326.

⁹ A Frost, *Arthur Phillip*, p.142.

¹⁰ A Frost, *Convicts and Empire, A Naval Question 1776-1811*, Melbourne, 1980, p.92; p.212, note 16, for source.

¹¹ HRNSW, 1, Pt.2, p.21. Sydney to Admiralty of 31 August 1786.

the Beauchamp Inquiry in 1785, on whether obstruction from the natives would prevent five hundred being put ashore at Botany Bay. To which Banks' reply was 'Certainly not - from Experience I have had of the Natives of another part of the same Coast I am inclined to believe that they wo^d speedily abandon the Country to the New Comers.'¹²

Regarding the projected troop strength to maintain security in the future colony, Captain Collins privately expressed concern, and in doing so indicated a few of the many uncertainties that must have beset all those embarked on the First Fleet. He wrote:-

Let me next call your observation to the smallness of the force we take out with us, a force so inadequate that none of the various officers for that purpose in town will insure either lives or property on this occasion. Admit that the natives to be few (which tho' advanced by Cook, yet, when I consider the vast extent of New Holland ... I much discredit [Cook's opinion], and think I meet in the interior parts numerous hordes and tribes of the natives) ... what we have [next] to fear from the superior numbers of our ['disciples' - J Currey's editing] we take from, the various colleges in England, most of them justly entitled to their degrees (that last and highest degree of exaltation, the gallows) and many of them consummate [sic] batchelors [sic] and masters of Arts.¹³

While Sydney instructed that the marines 'will be embarked on board a ship of war and the tender', he continued that if 'persons who may contract for the passage of the convicts should be desirous of obtaining military assistance for their greater security, they may be accommodated with a part of the marines'.¹⁴ In the event, the appointed contractor, William Richards decided that military assistance inboard was desirable, and so marines were allocated to convict transports as guard detachments.

Despite the presence of these marine guard detachments, the responsibility

¹² RJ King, 'Terra Australis: Terra Nullius aut Terra Aboriginum?', *Journal Royal Australian Historical Society* (henceforth *JRAHS*), Vol.72, Pt.2, October 1987, p.77. Quotation from Beauchamp Inquiry transcript of 10 May 1785.

¹³ J Currey, *David Collins, A Colonial Life*, Carlton, 2000, p.33 and Note 11, p.323. Collins to his brother George of February 1787.

¹⁴ *HRNSW*, 1, Pt.2, pp.14-15. Sydney to Treasury of August 1786.

for securing the convicts, while aboard, remained with the ship's master. This was a continuation of the system used to regulate transportation to America. The lawful basis of this was later explained by Commissioner John Thomas Bigge in his first report of June 1822. He pointed out that under 'the provisions of the 4th Geo. I. c. II, ... a property in the services of convicts is assigned to the person who contracts to transport them.'¹⁵ The practical application of this law was demonstrated when a convict, John Powers, briefly escaped during the First Fleet's stopover at Teneriffe. Judge-Advocate Collins noted that Powers' disappearance was marked 'by the activity of the master of the transport in which he had embarked (a penalty of forty pounds being the forfeiture on his entire escape) and a party of marines'.¹⁶ Prior to the sailing of the First Fleet, the situation was made explicitly clear by Under Secretary Nepean of the Home Office to the Comptroller of the Navy:-

I hope that it has occur'd to you in your engagements for transports that the owners, as well as the masters and mates, must enter into the bonds which the Acts of Parliament require for the safe custody of the convicts whilst on board the transports ... the courts will not vest them with custody of the convicts without it.¹⁷

With the master having prime responsibility for security on his ship, scope for future disagreement existed in any disputation between him and either the guard commander or naval agent, and later the naval appointed surgeon superintendent. In 1822, Bigge referred to the control and punishment of convicts as the cause of 'frequent altercations between them during the voyage'.¹⁸ Nevertheless, for the First Fleet, co-operation between ships' masters and marine guard commanders operated without reported friction. Unlike later military guards who were detailed, often unwillingly, for the unsoldierly duty of guarding convicts,¹⁹ the marine officers and other ranks were to be volunteers.²⁰

¹⁵ *Report of the Commissioner Of Inquiry Into The State Of The Colony of New South Wales. Ordered ... to be Printed, 19 June 1822, [The Bigge Report], Adelaide, 1966, p.7.*

¹⁶ D Collins, *An Account*, p.6.

¹⁷ *HRNSW, I, Pt. 2, p.34.*

¹⁸ *The Bigge Report*, p.7.

¹⁹ M Austin, *The Army in Australia 1840-50 Prelude to the Golden Years*, Canberra, 1979, p.23.

²⁰ *HRNSW, I, Pt. 2, pp.21-22. Sydney to Admiralty of August 1786.*

Sydney made the decision that 'about 180' marines would be dispatched to New South Wales.²¹ This resulted in a service decision to employ four companies each with an establishment of one captain, three subalterns, three each sergeants and corporals, two drummers, and forty private marines. Additionally, there was a major commanding the 'battalion', Brevet Major R Ross, and his two staff officers, Adjutant, Second Lieutenant J Long and Quarter-master, First Lieutenant J Furzer.²² Additionally, as deputy judge-advocate for the marine garrison, as well as for the civil power, Captain David Collins accompanied the First Fleet. His different status to that of his brother marine officers is indicated in a letter he wrote to his father, a marine major general, who as Commandant, Portsmouth Division, was also his commanding officer. David Collins wrote 'I was not put on full pay, but to have ten shilling a day, and to be considered an extra officer.'²³ Marine Captain-Lieutenant Watkin Tench noted that of 212 marine officers and men, 210 were volunteers.²⁴ From official correspondence, it is apparent that the two non-volunteers were officers detailed at short notice to fill sudden establishment vacancies. For example; 'direct L't Maxwell to embark on board the Scarborough ... and to proceed in her to Botany Bay, in room of L't Morrison, who has absented himself from his duty.'²⁵ This instruction was issued a month after the *Scarborough's* marine detachment was embarked for guard duties.²⁶

In October 1786, an order to raise the four companies was sent to the Marine

Commandants at Portsmouth and Plymouth together with details of special

²¹ HRNSW, 1, Pt.2, p.15.

²² HRNSW, 1, Pt. 2, p.106.

²³ J. Currey, *David Collins*, p.14, for commanding officer; and p.29, for letter quotation. His father was Major General Arthur Tooker Collins, whose acquaintance with First Sea Lord, Admiral Howe, contributed to David Collins' appointment (p.28). Major Ross had also served with Tooker Collins at the siege of Louisburg in the Seven Years War. Ross and David Collins were both in the battle of Bunker Hill in 1775 (p.58) and the two messed together on Boston Common. In 1775, Tooker also came out from England as their commander (pp.22-23). This gives an indication of various links of patronage in First Fleet appointments.

²⁴ W Tench, 1788, *Comprising A Narrative of the Expedition to Botany Bay and A Complete Account of the Settlement at Port Jackson*, Melbourne, 1996, p.19. The term "battalion" was contemporarily applied to the marine contingent.

²⁵ HRNSW, 2, p.387. Secretary to Admiralty to Marine Commandant, Portsmouth, of 26 March 1787.

²⁶ J Easty, *Memorandum of the Transactions Of A Voyage From England To Botany Bay 1787-1793, A First Fleet Journal*, Sydney, 1965, p.3, embarkation date, 27 February 1787.

conditions of service to be offered to attract other rank volunteers. These were that after three years, subject to good behaviour, marines could elect to take their discharge 'on return to England' or in the colony. Further, they would be victualled whilst on duty in New South Wales.²⁷ These terms were attractive to marines who, like land force soldiers, were required to enlist for life²⁸, and when ashore, had the cost of their rations deducted from their meagre pay. Marine Private John Easty confirmed in his journal the attractive nature of the inducement that prompted him to volunteer. He wrote that after guarding convicts for three years, he would 'then be discharged at our [his] own Request'.²⁹ For marine officers, such as Captain-Lieutenant Tench, with 'London ... full of half-pay officers looking for preferment'³⁰ volunteering was a way of returning to full time duty.³¹ Demonstrating the diverse reasons for volunteering, Midshipman Newton Fowell was keen to get a posting on an overseas bound warship as an aid to promotion, and his patron's influence with Under Secretary Nepean, secured Fowell a berth in HMS *Sirius*.³² In Currey's opinion Collins volunteered because he was maintaining a married life style 'beyond his means on half-pay he was in debt'³³

While naval vessels were being commissioned and crewed³⁴, and marine companies raised, work had commenced at naval dockyards to modify chartered merchant ships as secure convict transports. Conversion included internal strengthening of bulwarks where convicts were to be housed. Strong bars were

²⁷ *Australian Joint Copying Project* (henceforth *AJCP*), reel 1164, *Admiralty* (henceforth *ADM*) 2/1177, folios 491-493. Major General Carruthers, Chatham, to Colonel Tripper, Portsmouth Division and Lieutenant Colonel Hughes, Plymouth Division of 8 October 1786. *HRNSW*, 1, Pt. 2, p.23, for extract with edited amendments.

²⁸ *Manual of Military Law (MML)*, London, 1914, p.159. Also: J Moore, *The First Fleet Marines 1786-1792*, St. Lucia, 1987, p.8.

²⁹ J Easty, *Transactions Of A Voyage*, p.2.

³⁰ J Currey, *David Collins*, p.28.

³¹ *ADM* 2/1177, folio 325. Admiralty to Tench and four other officers of 27 October 1786.

³² *The Sirius Letters, The Complete Letters of Newton Fowell, Midshipman & Lieutenant Aboard The Sirius, Flagship Of The First Fleet, On Its Voyage to New South Wales*, Sydney, 1988, pp.23, 26 and 28.

³³ J Currey, *David Collins*, p.28.

³⁴ *HRNSW*, 2, pp.380-381. As late as 24 February 1787, Phillip wrote to the Secretary to Admiralty advising *Sirius* 'is very short of complement' and requested assistance.

fitted on doors to prevent movement between compartments and on gratings and hatchways which gave access to the upper deck. According to W Oldham barricades which in some American convict transports had been fitted on deck to segregate convicts, were apparently not installed. He noted that Captain Teer, the naval officer responsible for fitting out the fleet, maintained that as the two main transports, *Alexander* and *Scarborough*, each had an elevated quarter deck, three feet higher than the main deck, these would serve the same purpose. Later, loopholes were cut in doors and hatches to fire on any mutinous gathering.³⁵ A journal entry by Lieutenant King, differs in detail from Oldham's account. He wrote 'There is also a barricade of plank about 3 Feet high, armed with pointed prongs of Iron on the upper deck, abaft the Mainmast, to prevent any connection between the Marines & Ships Company, with the Convicts.'³⁶ Reconciling King's contemporary notation with Oldham's secondary report, indicates that barricades were erected on *Charlotte* and *Friendship* but not on *Alexander* and *Scarborough*, nor on the transports carrying female convicts - *Prince of Wales* and *Lady Penrhyn*.

The utilisation of space for security in convict transports required balancing against the need to provide for the health of the crew, marines and convicts, with each group crammed in a confined space for months. Commissioner Bigge in his 1822 report, highlighted the types of problems faced in planning transportation ships' layout. He expressed concern over the location of ships' hospitals, positioned in the bows, which he described as 'best situated for a separate place of confinement for offenders', rather than a hospital.³⁷ He noted the improved conditions for convict sick if the hospital was located further aft. But this would create security problems, and a risk of an infection spreading to the crew. Having raised the issue, Bigge discarded his own proposal, writing 'that immediate control over the others [convicts not confined to hospital] that is now afforded to the military guard, which would be lost, if the hospital were interposed between their

³⁵ W Oldham, *Britain's Convicts*, pp.126-127.

³⁶ *The Journal of Philip Gidney King: Lieutenant, R.N. 1787-1790*, Sydney, 1980, p.6.

³⁷ *The Bigge Report*, p.6.

apartment and the prison.³⁸ Regarding transports carrying female convicts, Bigge noted that special security precautions were required to prevent the crew breaking into the hospital.³⁹

Security of stores was of high priority. In loading the storeships *Borrowdale*, *Golden Grove* and *Fishburn*, King wrote that the provisions and stores for two years subsistence in the new colony were distributed so 'that an accident happning [sic] to one Ship would not have disagreeable consequences, which must be the case, if ye whole of one Species of Stores was on board each Ship.'⁴⁰ For the convict transports, in addition to food, water, and stores of a naval nature, specialised supplies for the prisoners were also carried. The scale of items, per 100 convicts, was recorded in the 1812 Select Committee on Transportation. While this list would have been refined over the intervening twenty five years, it would represent a fair sample of stores carried in the First Fleet. These items included; hospital 'Night-caps', 'Brimstone, crude', 'Combs, large' and items for female convicts, including a detailed range of 'Child-bed Linen'. Of note, is the section titled *Articles of Security*, which included handcuffs, 'Joined barrels with chains - 100 pairs' and 'New strong oak blocks, with large stake and iron-work complete - 2 number'. Presumably the oak blocks with fittings were designed to pinion refractory convicts to the upper deck as was the fate of John Powers during the voyage of the First Fleet.⁴¹

With the possibility of external threat or internal insurrection arising at Botany Bay, the ordering and loading of ordnance was of vital concern. On 31 October 1786, Phillip requested *Sirius* be issued with a total of 20 cannon of several descriptions which could 'be of great use ... on board or on shore'.⁴²

Additionally, on 15 November, the Admiralty requested the Board of Ordnance

³⁸ *The Bigge Report*, p.6.

³⁹ *The Bigge Report*, p.5.

⁴⁰ *Journal Philip Gidney King*, pp.6-7.

⁴¹ 'Report from the Select Committee on Transportation. *Ordered ... to be printed*, 10 July 1812', *British Parliamentary Papers, Crime and Punishment Transportation 1*, Appendix No.28, Shannon, 1969, pp.108-109.

⁴² *HRNSW*, 1, Pt. 2, p.28.

supply the marines 200 muskets and twelve carbines, all with bayonets, together with necessary spare flints and other requirements for muskets.⁴³ With minor amendments, the cannon and muskets together with other items, such as tents, were listed as ordered to be sent to Botany Bay in estimates prepared for Prime Minister William Pitt of 21 December 1786.⁴⁴ This list is unusual for two reasons; no provision was made for supply of small arms ammunition and some items of ordnance have been authorised for a surprising reason, namely:-

‘200 musquets for barter’, and

‘200 cutlasses for barter’.

Although barter was a common form of exchange with indigenous populations, or when specie was rare, the nature and quantity of these barter weapons is perplexing. It is virtually incomprehensible that these, rather than trinkets, were intended for barter with the Aborigines, or Pacific islanders with so little known about them at this time. No reference has been noted in Phillip’s Instructions, or other correspondence, regarding trading with the Dutch or native rulers in the East Indies. There is a slight possibility that weapons ostensibly requisitioned ‘for barter’ were actually earmarked as reserve colonial stock against a possible threat from the French or Dutch. As the marines were issued 200 personal firearms which could counter any danger from insurgency, or from the Aborigines, it is speculated that the Home Office did not want publicity given to any preparatory counter measures.

Alternatively, the muskets could have been ordered as long term replacement spares. The 200 cutlasses, not a normal issue to troops, would have provided suitable counter-insurgency weapons, at sea and ashore, where the application of the code of minimum force dictated the use of cutlasses rather than ball ammunition for crowd control. This is confirmed by Easty who, as a guard aboard *Scarborough*, ‘was Confind for Dropping the Cutlash’.⁴⁵ In this case, an official or clerk

⁴³ HRNSW, 2, p.372.

⁴⁴ HRNSW, 1, Pt. 2, p.33.

⁴⁵ J Easty, *Transactions Of A Voyage*, p.4.

preparing the list of stores, could have used the convenience of listing them 'for barter' to avoid haggling with Treasury officials to get approval for these additional weapons. Substance for this argument is gained from a comparison with the list of stores ordered for Collins' Port Phillip expedition, which included fifty marines, but made no reference to barter weapons. Under the heading of 'Arms and Ammunition'⁴⁶ the following were listed:-

Sea Service Swords or Cutlasses	100
Spare Musquets for Marines	50

Compared to Phillip's barter weapons, this represents a 100 per cent increase in the proportion of cutlasses issued to the marines available to use them. Regarding Collins' fifty spare muskets, this is in similar proportion to those issued for the First Fleet 'for barter' (200 weapons for a total establishment of 212 officers and men).

For the First Fleet, the 200 stand of arms listed on the ordnance estimates for the marines, were the personal issue weapons with which they embarked. Private John Easty wrote that on 22 January 1787, a month after the publication of the ordnance estimates, 'Captain Shea reueued [reviewed] the arms and acquitments and Comdem all the Bad ones and ordered to be Suplyed with new ones'.⁴⁷ This process was to ensure that the 200 stand were serviceable and that any weapons approaching a state of unserviceability were replaced at public expense before the First Fleet sailed.

In comparison to ammunition ordered for Collins' expedition,⁴⁸ no small arms ammunition is shown on the First Fleet authorised ordnance list, which - although inexcusable - is probably why the marines embarked without any. Major

⁴⁶ *Records of the Port Phillip Expedition Correspondence October 1801-February 1803, Appendix VI, Vol.1, ed. J Currey, Melbourne, 1990, p.126.*

⁴⁷ J Easty, *Transactions Of A Voyage*, p.3.

⁴⁸ *Records of Port Phillip Expedition*, p.126. 'Ball Cartridges' to the following quantities were to be supplied 'Musquet 600' and 'Carbine Pistol 5000'. The emphasis on pistol ammunition indicates the close quarters value of pistols aboard ship. Fifty pairs of pistols were ordered.

Ross, who received his appointment in October 1786,⁴⁹ had adequate time to correct this omission before the first marines embarked in December 1786. By his own admission, he only visited his embarked guard detachments on 12 March 1787. As a result he advised the Admiralty that he had obtained 'a small quantity of ammunition for the present use of the detachment'.⁵⁰ Two days later the Admiralty responded, advising Ross that approval was given to supply him with ammunition required by the marines in Portsmouth and during their passage to Botany Bay. The quantities required were to be as Ross 'may think necessary'.⁵¹ It appears that Ross did not 'think' on this matter, as some months later, Phillip, in a dispatch from Teneriffe, wrote:-

I understood when the marines ... were embarked that they would be furnished with ammunition; but since we sailed [I] find that they were only supplied with what was necessary for immediate service while in port [Portsmouth], and we have neither musquet balls nor paper for musquet cartridges, nor have we any armourer's tools to keep small arms in repair⁵²

This lack of ammunition was a monumental security blunder. The first record of an ammunition deficiency was in December 1786, an Admiralty memorandum, stated:-

Lieutenant Geo: Johnstone [sic], commanding the Party of Marines ordered to embark inboard the *Alexander* transport at Woolwich [Figure 3⁵³] tomorrow, to guard & assist the Master in preserving Order amongst the Convicts in their Passage round to Spithead-, having represented to my Lords Commrs. of the Admty that he has no Ammunition ... their Lordships ... [are] pleased to order him to be supplied with such a proportion of Ammunition ... as may be necessary⁵⁴

Whilst initially the Portsmouth or Plymouth Marine Divisions, or Board of Ordnance could be suspected of being inefficient, once Ross officially became

⁴⁹ *HRNSW*, 1, Pt.2, p.26. Ross's commission was dated 24 October 1786. Ross had several months warning of his dual appointments of battalion commander and lieutenant-governor before the first marine guard detachments embarked.

⁵⁰ *HRNSW*, 2, p.386. Stephens to Ross of 13 March 1787, which refers to Ross' letter of 11 March.

⁵¹ *HRNSW*, 2, p.386. The Admiralty advised the Marine Commandant Portsmouth, General Smith, to execute this directive.

⁵² *HRNSW*, 1, Pt.2. pp.106-107. Phillip to Sydney of June 1787.

⁵³ P Taylor, *The Atlas of Australian History*, Frenchs Forest, 1990, p.20.

⁵⁴ *AJCP* reel 1164, ADM 2/1178, folio 40. Initials (Stephen's?) to 'Rt. Honble. Lieut General, & Principal Officers of Ordnance' of 13 December 1786. 'Johnstone' being 'Johnston', who commanded the New South Wales Corps in Sydney at the time of the 1808 mutiny.

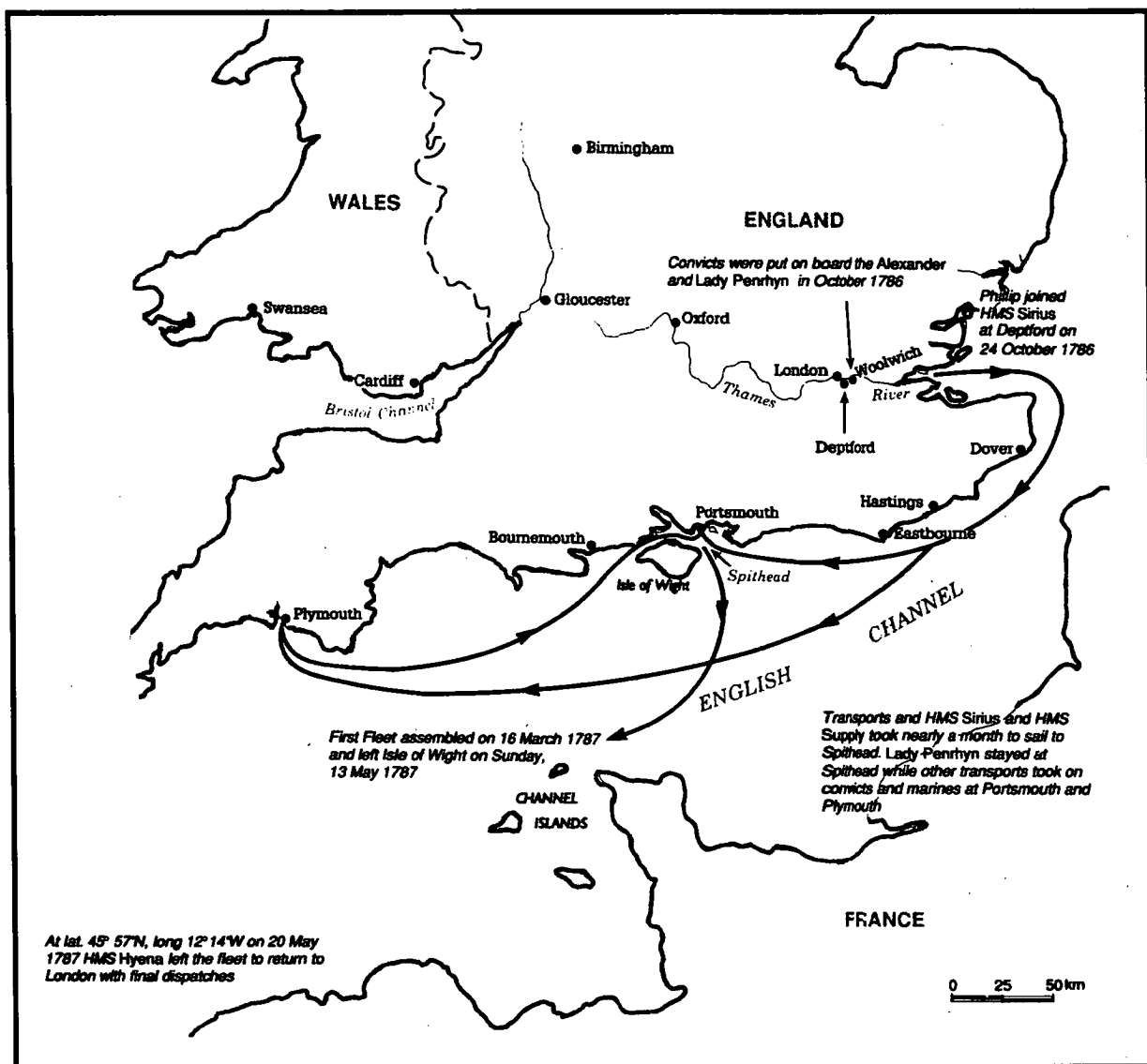


Figure 3: Assembly of the First Fleet in southern English waters 1786/1787

aware of the situation on 11 March 1787, two months before the First Fleet sailed, his failure to effectively correct the situation was an unpardonable dereliction of duty. Secondary sources have suggested different reasons for this lack of ammunition. One view was that the ammunition like 'the feminine apparel was [somehow] left behind when the expedition sailed.'⁵⁵ Another account is that 'the Ordnance Office, notorious for its inefficiency, had failed to deliver the expedition's small-arms ammunition' and once the fleet was at sea this was 'kept a close secret for fear that it might encourage the prisoners to mutiny.'⁵⁶ In fact, the marines had their Portsmouth immediate use ammunition at sea, as explained in Phillip's dispatch quoted in the preceding paragraph. Further, once Phillip was aware of this shortage, the marine's ammunition was supplemented by 'what little the *Sirius* can supply'.⁵⁷ Because there *was* some ammunition available to the marines (although of a limited quantity), the unsubstantiated statement that this shortage was kept 'a close secret' to prevent mutiny, is of doubtful credibility.

In the event, Phillip solved the ammunition shortage, purchasing 'ten thousand musquet-balls' from the Portuguese arsenal at Rio de Janeiro.⁵⁸ While the purchase of this quantity of ammunition appears excessive, there is no record of any rebuke coming from London for this capital outlay which represented a significant increase to the ordnance estimates prepared for Prime Minister Pitt in December 1786.⁵⁹ It is a possibility that the 10,000 rounds were linked to the unusual requirement of 200 muskets and cutlasses 'for barter'. If Phillip had received a prior London brief that a foreign threat to the colony was possible, the question of using the authority in his commission to raise levy forces in an emergency, would have been discussed.⁶⁰ In such an event, he had the capability to arm (with 'barter' weapons), and supply with Portuguese ammunition, a militia of 200 trusty convicts, in addition to the marine battalion. Such an external security

⁵⁵ W Oldham, *Britain's Convicts*, p.139. Oldham refers to this as a 'Gilbertian situation', p.140.

⁵⁶ C Bateson, *Convict Ships*, p.99. Bateson does not quote an authority for this statement.

⁵⁷ HRNSW, I, Pt.2, p.108. Phillip to Nepean of June 1787.

⁵⁸ HRNSW, I, Pt.2, p.112. Phillip to Nepean of September 1787.

⁵⁹ HRNSW, I, Pt.2, pp.32-33.

⁶⁰ HRNSW, I, Pt.2, p.64.

threat was not fanciful. When La Perouse's ships were first sighted off Botany Bay, there was speculation on *Lady Penrhyn* as to whether these vessels were 'Dutch ships com'g after us to oppose our landing'.⁶¹

Rather than 10,000 Portuguese rounds being an excessive quantity, it can be argued that this was insufficient for the marines' requirements in the event of an armed incursion by a European power. Considering that the capacity of an ammunition pouch was sixty rounds (of total six pounds weight),⁶² in order to fill 192 marine ammunition pouches (being the establishment of marine other ranks), a total of 11,520 rounds was required. Even making allowance for those rounds supplied in England and from *Sirius*, 10,000 Portuguese rounds were inadequate for an initial issue to the marines if placed on a war footing. In a request by Commissary Andrew Miller in 'A List of Articles most wanted in the Settlement' of July 1788⁶³, as well as ordering armourers' tools (a vital store for upkeep of muskets) were components for more small arms ammunition as 'none [was] sent out'. By the nature of his duties, Miller must have been aware of the ammunition purchase at Rio de Janeiro, therefore the question arises why still more ammunition was needed.

It is improbable that 10,000 rounds would be required in Botany Bay against a convict insurrection, or for marine musketry training. Tench in his account of his service in the colony, to December 1791, does not once refer to the marines conducting live firing.⁶⁴ With a tactical doctrine of massed volley firing, in which muskets were pointed rather than aimed, the need for live firing exercises was minimal compared to that for later generations of rifle equipped soldiers. In the colony, survival and guard duties, rather than training, fully occupied the marines. This was confirmed by an officer's letter of April 1790 in which he stated that 'So incessantly have we been employed that no military manoeuvre of the least

⁶¹ HRNSW, 2, p.391. Bowes' journal entry of 24 January 1788.

⁶² M Windrow and R Hook, *The Footsoldier*, Oxford, date unknown, biographical page missing, p.48.

⁶³ HRNSW, 1, Pt.2, p.155.

⁶⁴ W Tench, *Narrative of the Expedition*, pp.43-226.

consequence has been practised ... since our embarkation'.⁶⁵ There is, however, one reference to ammunition being allocated for internal security training. This is recorded by King in December 1788, where, on Norfolk Island, he formed a small militia, which after training, fired six rounds per month.⁶⁶ Whether the 10,000 Portuguese were adequate under conditions existing in the early days of settlement, or as Commissary Miller requested in July 1788, that more ammunition was required, was never put to the test, but this question of ammunition illustrates how the 'tyranny of distance' affected the infant colony.

Except for ammunition, and problems caused by an increased numbers of convicts to be transported, stores and personnel were efficiently embarked. In planning the allocation of marines within the fleet, the size of each transport was balanced against the limitations imposed by gender of those to be shipped, including marines' wives and children as well as female convicts and their children, as per the attached loading tables (Figure 4⁶⁷). While the transports *Alexander* and *Scarborough* carried the greatest numbers of convicts, their smaller guard detachments were adequate for security.

Under the ships' masters, the marines' responsibility for guarding and administering the convicts commenced aboard two transports, *Lady Penrhyn* and *Alexander*, while still in the upper Thames. The male convicts on *Alexander* created such a disturbance on the 19-20 January 1787, including taking 'their hands out of irons', that the ship's master ordered boats to be rowed around the vessel to prevent convicts escaping.⁶⁸ The security situation eased on 30 January, when these two transports proceeded down river to 'Gravesend, where the *Sirius* joined them next day'.⁶⁹ Meanwhile, preparations proceeded to load other transports at Portsmouth and Plymouth. In each case the marines boarded first, to be organised in their

⁶⁵ HRNSW, 2, p.761. Published letter by unnamed officer of April 1790.

⁶⁶ *Journal Philip Gidney King*, p.174. Details, see below, Chapter 3, p.52 and footnote 52.

⁶⁷ HRNSW, 1, Pt.2, p.79, for Figure 4 table.

⁶⁸ HRNSW, 2, p.399 and W Oldham, *Britain's Convicts*, p.135.

⁶⁹ J Hunter, *An Historical Journal Of Events At Sydney And At Sea 1787-1792*, Sydney, 1968, p.2. Gravesend is on the Thames, some fifteen miles down river from Woolwich, see Figure 3.

RETURN of the Botany Bay detachment of Marines, the number of wives and children, and the names of the ships on board of which they are embarked, with the number on board of each ship. April the 15th, 1787.

Ships' Names.	Commandant.	Captains.	Capt.-Lieutenants.	First Lieutenants.	Second Lieuts.	Adjutant.	Qr.-master.	Judge-Advocate.	Serjeants.	Corporals.	Drummers.	Privates.	Wives.	Children		Total on each Ship.
														Male.	Female.	
H.M. ship Sirius	1	..	..	..	..	1	1	..	1	..	3	6	4	..	..	16
Alexander, transport ..	..	..	..	2	..	..	..	..	2	2	1	28	1	..	..	36
Charlotte do. ....	..	..	1	2	..	..	..	..	3	3	1	34	6	1	..	51
Scarborough do. ....	..	1	..	2	..	..	..	..	2	2	1	26	..	..	..	34
Friendship do. ....	..	..	1	..	2	..	..	..	2	3	..	36	3	4	1	52
Prince of Wales do. ....	..	..	..	2	..	..	..	..	2	2	1	24	16	2	4	53
Lady Penrhyn do. ....	..	1	..	1	1	..	..	..	..	..	..	3	..	..	..	6
Sick on Shore ..	..	..	..	..	..	..	..	..	..	..	2	3	..	..	..	5
General Total ..	1	2	2	9	3	1	1	..	12	12	8	160	30	7	5	253

RETURN of the male, female, and children convicts embarked for Botany Bay, distinguishing the number of each on board each transport. April the 15th, 1789.

Ships' Names.	Male.	Female.	Male Children.	Female Children.	Total each Ship.
Alexander, transport ...	198	...	..	...	198
Charlotte do.	86	20	1	1	108
Scarborough do.	205	...	...	...	205
Friendship do.	75	19	3	...	97
Prince of Wales do. ....	...	10	...	1	11
Lady Penrhyn do.	1	104	2	3	110
General Total ..	565	153	6	5	729

Figure 4: First Fleet loading tables for Marines, dependants and convicts as at April 1787

duties before the convicts came aboard. Easty and his detachment embarked on *Scarborough* on Tuesday, 27 February at Mother Bank anchorage off Portsmouth. He wrote in his journal that on Sunday, 4 March '185 Convicts Embarked on bord [sic] the *Scarborough* for Botany Bay'. It would appear that the marines conducted a thorough search as next day a convict was 'Punished with 1 Dosen Lashes for hideing a knife in his Shoe'.⁷⁰

The numbers embarked on the transports awaiting sailing, presented a health problem which concerned Phillip. In pleading for fresh rations, he wrote to Under Secretary Nepean that ignoring the plight of the convicts 'which humanity forbids, the sending of the marines that are on board the transports [for] such a voyage ... in a worse state than ever troops were sent out of the Kingdom, even to the nearest garrison'.⁷¹ Because of Phillip's insistence on fresh rations, clean prison compartments and regular periods on deck, a good standard of convict health was maintained during the long delay between boarding and finally sailing on 13 May 1787. This was despite the fact that male convicts remained individually chained to prevent escape. As noted by Phillip, this long interval between embarkation and when the First Fleet sailed:-

was very usefully employed in making the convicts fully sensible of the nature of their situation; in pointing out to them the advantages they would derive from good conduct, and the certainty of severe and immediate punishment in case of turbulence or mutiny. Useful regulations were at the same time established for the effectual governing of these people; and such measures were taken as could not fail to render abortive any plan they might be desperate enough to form for resisting authority, seizing any of the transports, or effecting, at any favourable period, an escape.⁷²

Officers and private marines gave differing accounts of this period. From Captain-Lieutenant Tench's viewpoint, although the delay was 'Unpleasant', it allowed the guard detachments time 'to adopt such a system of defence as left us

⁷⁰ J Easty, *Transactions Of A Voyage*, p.3.

⁷¹ HRNSW, I, Pt.2, p.58.

⁷² *The Voyage Of Governor Phillip To Botany Bay with contributions by other officers of the First Fleet and observations on affairs of the time by Lord Auckland*, introduced and annotated JJ Auchmuty. Sydney, 1970, pp.6-7.

little to apprehend for our own security in case a spirit of madness and desperation had hurried them [the convicts] on to attempt our destruction.’⁷³ Here internal security is equated with survival, by those charged with enforcing it. As a voice from below, Easty was concerned with the mundane details of life which concerned him, his punishment when dropping his cutlass and ‘Liuke hines [Luke Haines] Confind for Dessbeadeadne [Disobedience] off [sic] orders’. Also, on Thursday 3 May 1787, one sergeant, one corporal and six privates from each ship were detailed to board the *Charlotte*, to witness punishment imposed on a Private Nash by court martial ‘for unsoldier Like behaveyour sentanced 200 and received 150 Lashes’ Easty’s greatest concern, expressed in his journal on 6 May, was that ‘the Marines rum Should be takin from them att time of Dis Enbarken from the Ships in Botany Bay’.⁷⁴ Four days later his sole entry for the day reads ‘Major Ross promised us the Liquir for the 3 years in the Country’.⁷⁵ Both discipline and morale boosting were blended to help maintain an efficient security force.

After a last minute delay caused by seamen from the transports and store ships being short paid⁷⁶, at 4am on Sunday, 13 May 1787, the First Fleet weighed anchor.⁷⁷ Naval officers from Midshipman Fowell to Governor Phillip, only noted nautical details during the departure of the First Fleet. Of the marines, Collins’ and Easty’s journals contained the same type of entry. Collins referred to HMS *Hyaena* accompanying ‘the little fleet’⁷⁸ during the initial part of the voyage. The general lack of any expression of sentiment suggests that during the waiting period before sailing, a degree of inevitability had become common amongst the free and convicts, and that any activity was considered better than remaining moored at Mother Bank. Tench on *Charlotte*, observed ‘A few [convicts] excepted, their countenances indicated a high degree of satisfaction, though in some the pang of

⁷³ W Tench, *Narrative of the Expedition*, p.18.

⁷⁴ J Easty, *Transactions Of A Voyage*, pp.4-5.

⁷⁵ J Easty, *Transactions Of A Voyage*, p.5. HRNSW, 1, Pt.2, pp.100-103. Marines’ memorial and resulting correspondence.

⁷⁶ *Journal Philip Gidney King*, p.7. HRNSW, 1, Pt.2, pp.103-104. Phillip to Admiralty of 12 May 1787.

⁷⁷ HRNSW, 2, p.408. *Journal*, Captain Brown of *Fishburn*.

⁷⁸ D Collins, *An Account*, p.6.

being severed, perhaps forever, from their native land could not be wholly suppressed'.⁷⁹ Possibly, with such a passive acceptance of their fate, concern over future mutinous activity amongst male convicts was lessened.

Despite the apparent quiet after sailing, the marines' muskets remained loaded at all times. This is established in a diary entry, of 15 May 1787, by Surgeon-General John White, noting that 'Corporal Baker ... on laying a loaded musquet down, which he had just taken out of the arms chest, was wounded by it.'⁸⁰ Additionally, until well at sea, the male convicts remained individually chained. Contemporary accounts, written in narrative form, differ as to when these chains were struck off, but shortly after their removal a mutiny plot was quashed. Journals kept in the form of a day by day diary, such as those of Easty, are useful in reconstructing exact sequences of events when cross referenced with reports and general narratives. In this case, Easty's diary is particularly valuable as he was on *Scarborough*, where the mutiny was plotted.

Governor Phillip's hurried account of the planned mutiny, quashed on 18 May, was written two days later as *Hyaena* was about to be released by him, to take his routine dispatches back to England. He wrote:-

Since I have sealed my letters I have received a report from the officers on board the *Scarborough* respecting the convicts, who, it is said, have formed a scheme for taking possession of the ship. I have order'd the ringleaders on b'd the *Sirius*⁸¹

Although Phillip wrote to Nepean earlier on 20 May, that 'the sea runs too high to send [a boat] on board the different transports to get any particular account of the state of the convicts,'⁸² it is surprising that he only learnt of this plot on that day. Marine Sergeant James Scott noted on 19 May that 'Wind Continueud fresh, With Rain; ye Fleet. All in sight.-' It seems unusual that some signal concerning the attempted mutiny was not passed from *Scarborough* to *Sirius* prior to 20 May

⁷⁹ W Tench, *Narrative of the Expedition*, p.19.

⁸⁰ J White, *Journal of a Voyage to New South Wales*, Sydney, 1962, p.52.

⁸¹ HRNSW, 1, Pt.2, p.106. Phillip to Nepean.

⁸² HRNSW, 1, Pt.2, p.105. Phillip to Nepean.

1787.⁸³

Unravelling details of the planned mutiny on *Scarborough*, is a composite of accounts that mention it.⁸⁴ Hunter wrote that 'a few days previous to this scheme, [Phillip] directed the irons ... should be taken off' in the interests of hygiene.⁸⁵ Easty recorded that on *Scarborough* the planned insurrection was detected and preventative measures taken on Friday, 18 May. Therefore, the convicts' fetters, must have been removed on or about 16 May, three days after sailing.⁸⁶ On the evening of Friday 18 May, the convicts, now released from their chains, planned to seize the ship that night, and as the wind was favourable, sail *Scarborough* to France. This plot, which was 'fixed very well' was instigated, in Easty's words, by 'Philiph Farrall [Phillip Farrell] Late boatswains Mate of his Maj'ts ship Golaih and the other Tho's Grafise [known as Griffiths] late Marster of a french Privater'.⁸⁷ If the mutiny had been successful, these two experienced seaman planned to supervise the working of the ship, so that after slipping away from the convoy by night, they would have a fair chance of sailing to France. But, prior to implementing the mutiny, an informer gave warning of the plot. With the guard turned out and their muskets covering the convicts through loop holes, the prisoners were again ironed, with ringleaders being double ironed and probably isolated.

On 20 May, with seas moderating, Easty wrote that 'att 5 in the Evining hoised out the boat and went on bord the Commodores ship [presumably for senior officers to report the plot] and att the Same time sent the boat again with 2 Convicts for Mutiny'.⁸⁸ Taken on board *Sirius*, the two ringleaders were each punished with

⁸³ J Scott, *Remarks on a Passage to Botany Bay 1787-1792, A First Fleet Journal*, Sydney, 1963, p.1.

⁸⁴ Collins, Tench and King made no reference to the mutiny.

⁸⁵ J Hunter, *An Historical Journal*, pp.3-4.

⁸⁶ A Frost, *Arthur Phillip*, p.154. On this evidence, Frost is apparently incorrect in stating that Phillip had 'so little concern [over this attempted mutiny] that he gave permission for the males to be unfettered' (presumably after the event). Unfettering took place before the mutiny, only on *Scarborough* were convicts later rechained.

⁸⁷ J Easty, *Transactions Of A Voyage*, pp.7-8. *The Sirius Letters*, p.44, for 'fixed very well' and p.157, Note 4 to Letter 11, for background and criminal record of both men, each sentenced to seven years transportation.

⁸⁸ J Easty, *Transactions Of A Voyage*, p.7.

twenty-four lashes, a mild sentence for such a serious charge, and to prevent a recurrence of mutiny, were transferred from *Scarborough* to *Prince of Wales*, which carried only ten female convicts. It is not known how long the conspirators remained in their double chains, but according to Surgeon White, after their transfer they behaved very well.⁸⁹ After the event, Hunter recorded that, with the marines' vigilance, the attempt would have been doomed to failure.⁹⁰ Finally, the bulk of *Scarborough's* convicts remained chained until 2 June, being released after Major Ross came on board at 4pm and spoke to them.⁹¹

Commissioner Bigge, 35 years after the voyage of the First Fleet, made a pertinent comment on informers which apparently applied to the mutiny plot of 20 May 1787. He wrote:-

The fear of combinations amongst the convicts to take the ship, is proved by experience ... to be groundless; ... they possess neither fidelity to each other, nor courage sufficient to make any simultaneous effort that may not be disconcerted by timely information⁹²

But, Bigge's statement did not absolutely apply as will be considered in Chapter 7, concerning the *Lady Shore*. In this instance a female convict, unhappy with being ill treated by her lover, a conspirator in the New South Wales Corps, gave such a warning, which was not heeded.

Reference has already been made to the next security breach, at Teneriffe (Figure 5⁹³), where a convict escaped and Captain Collins noted that if the man had got clear away, the ship's master would have forfeited forty pounds under his contract bond. The circumstances of John Powers' escape from *Alexander* were that he was on deck on the evening of Friday, 8 June 1787, being 'permitted to work as a Seaman',⁹⁴ and 'as the means of absconding must have been accidentally

⁸⁹ J White, *Journal of a Voyage*, p.52.

⁹⁰ J Hunter, *An Historical Journal*, p.4.

⁹¹ J Easty, *Transactions Of A Voyage*, p.11.

⁹² *The Bigge Report*, p.3.

⁹³ P Taylor, *Atlas of Australian History*, p.22.

⁹⁴ *Journal Philip Gidney King*, p.11. M Gillen, *The Founders of Australia A Biographical Dictionary of the First Fleet*, Sydney, 1989, p.292, records the name as 'Power'.

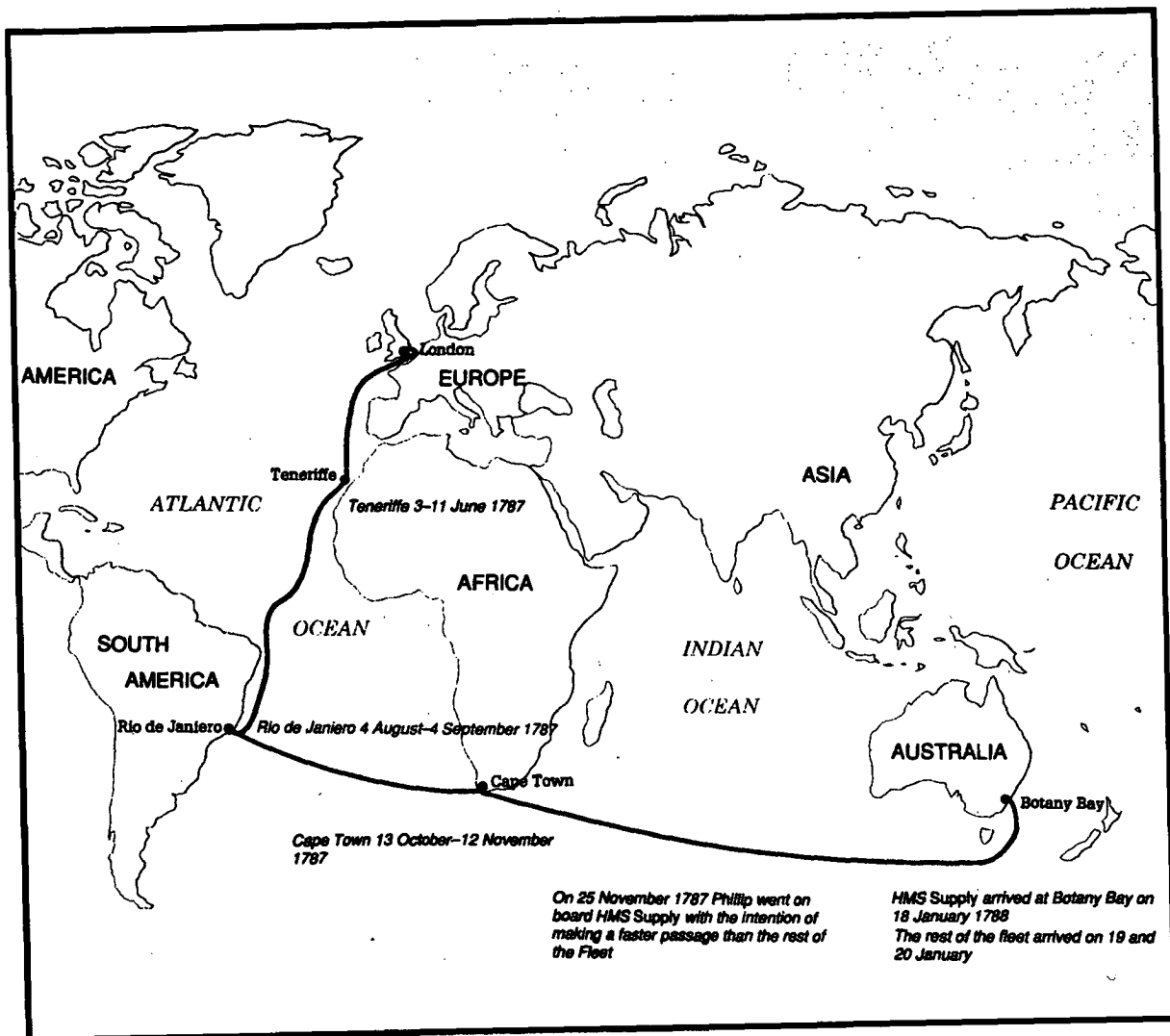


Figure 5: Route of the First Fleet's voyage.

offered',⁹⁵ he let himself down over the bows. Floating down to a boat that was tied astern of *Alexander*, Powers drifted until it was safe to row to a Dutch East Indiaman. Here, Powers offered himself as a sailor, and being refused made for shore, where steep cliffs forced him to remain on the beach. Next morning, seeing the ship's boat, a marine corporal and six privates found and recaptured Powers.⁹⁶ The sequel to this, as recorded by Captain Hunter, was that Powers was 'punished, and put in irons until we got to sea, when he was liberated in the same manner as the rest.'⁹⁷

Hunter's comment that Powers was released from irons 'in the same manner as the rest' once at sea, indicates that as a security measure while the fleet was in port at Teneriffe, male convicts were chained, with "trusty" prisoners such as Powers being exempted. But, although individually chained at both Teneriffe and later Rio de Janeiro:-

With respect to the convicts, they have been all allowed the liberty of the deck in the day, and many of them [at Rio de Janeiro] during the night, which has kept them healthier than could have been expected.⁹⁸

While there were no reported security incidents in the fleet's passage from Teneriffe, or in the long stay from 6 August to 4 September 1787 at Rio de Janeiro, inspections kept the marines alert. Easty noted that on Monday, 13 August 1787, 'the Commodore and Major ross [sic] went round the fleet and Spoke to the men'.⁹⁹ Such an inspection of all detachments, by the senior naval and military officers together, would have been more than a ceremonial occasion for all ranks of the marines, with the commanders assessing the efficiency, morale and welfare of the troops. All matters requiring close attention, when any unacceptable slipping of standards could affect the overall security of the fleet, or of individual transports.

⁹⁵ *Voyage of Governor Phillip*, p.12.

⁹⁶ W Trench, *Narrative of the Expedition*, p.23, and J Hunter, *An Historical Journal*, pp.6-7. J Scott, *Remarks on a Passage*, p.3, for marines.

⁹⁷ J Hunter, *An Historical Journal*, p.7. J White, *Journal of a Voyage*, p.54. White recorded that Powers 'by an artful petition he got written for him, he so wrought on the governor's humanity as to procure a release from his confinement.'

⁹⁸ *HRNSW, I, Pt.2*, p.113. Phillip to Nepean of September 1787.

⁹⁹ J Easty, *Transactions Of A Voyage*, p.30.

As Frost points out, it was Phillip's previously expressed intention, that whenever the opportunity offered, he would inspect conditions aboard transports and speak to the convicts.¹⁰⁰ In this case, the marines must have been the focus of Phillip's interest.

It was not until a week before the arrival of the fleet at Cape Town, that the next security problem arose. The narrative for this attempted mutiny is mainly taken from the journals of Lieutenant King and that dedicated diarist, Easty. Disaffected convicts and some sailors realised that once the fleet rounded the Cape of Good Hope, and entered the little known southern oceans, hope of a successful escape to a friendly port would be lessened. Therefore, it was essential they act before the fleet left the Atlantic Ocean. Surprisingly, with the exception of Surgeon Arthur Bowes' 'The Mitchell Journal',¹⁰¹ this incident was ignored in Phillip's dispatches from Cape Town, and also in other known reports and letters from the First Fleet.

According to Easty, prior to noon on 6 October 1787, a plot on *Alexander* instigated by two convicts and four seamen was foiled. This probably took place at night, as an officer on *Scarborough* noted that *Alexander* 'threw out three signals of distress', indicating the use of night pyrotechnics rather than day signal flags.¹⁰² This would have occurred either on the night of 5-6 October if Easty was correct, or

¹⁰⁰ A Frost, *Arthur Phillip*, p.143. *HRNSW*, 1, Pt.2, p.51, for Phillip's 'Views on the Conduct of the Expedition',

¹⁰¹ *The Journal of Arthur Bowes Smyth: Surgeon, Lady Penrhyn 1787-1789*, eds. PG Fidlton and RJ Ryan, Sydney, 1979, p.39. There are significant differences between this 1979 publication and the *HRNSW* version of *Bowes' Journal*, published in 1893, (*HRNSW*, 2, pp.389-394). Apparently, the explanation lies in the 1979 editorial comment that another work 'alluding to the existence of a rough, day-to-day set of notes or diary from which Bowes entered his observations in a later copy - or copies' (p.xvii). Presumably, copies of *Bowes' Journal* held at the Australian National Library, Canberra; Mitchell Library ('The Mitchell Journal'), Sydney; and British Museum, London; are derived from these rough notes on which the *HRNSW* copy is possibly based.

¹⁰² *HRNSW*, 2, p.740. Unnamed officer's letter published in the Dublin press in June 1788.

on 6-7 October if the officer on *Scarborough*, and *Fishburn's* log, were correct.¹⁰³

Prior to the plot being foiled, knives and metal bars had been smuggled to the convicts by the four seamen as preparation for the planned mutiny. Easty, but not King, also referred to sailors smuggling pistols and their intention to 'take the Ship from the marines'.¹⁰⁴ Whether the marines had warning from an informer is not known. But effective counter action was taken, after which the master and guard commander were rowed across to *Sirius* to report to Phillip. *Fishburn's* log of 7 October, records that the fleet 'Lay too 4 hours, the Commodore's boat being on board the *Alexander*'.¹⁰⁵ As a result, four seamen were transferred to the flag ship for trial and two convicts were later sent to *Scarborough* where they were 'stapled to the Deck'.¹⁰⁶ Probably the 'New strong oak blocks, with large stake and iron-work complete', mentioned earlier as a specialist maritime store for use on convicts, secured the two ringleaders to the deck.

As a result of *Sirius* passing the information to *Lady Penrhyn* on 9 October 1787, Surgeon Bowes' journal entry concerning the mutiny on *Alexander* provides an insight into its background. He noted that the ship's company and convicts:-

were very mutinously inclined when at Rio de Janeiro & threatened ... [the ship's officers] much, declaring they wd. do as they pleased for all Capt. Sinclair [the ship's captain], who they sd. had no power over them, & who indeed appeared to have lost all Authority over his people¹⁰⁷

Ultimately the ship's master was the dominant factor in maintaining, or failing to maintain security on convict transports. In *Alexander's* case, there was a strong armed marine detachment of two first lieutenants, two sergeants and thirty one corporals and below.¹⁰⁸ In the wake of the American War of Independence, this

guard most probably had the breadth of experience, as well as numbers, to carry out

¹⁰³ *Mercury*, Hobart, 8 September 2003, p.5. An article concerning different dates attributed to Bowen's landing at Risdon Cove in September 1803, notes one apparent reason for this confusion on dates. Then, ship's logs commenced daily at noon, with entries first shown 'as pm and then am for the following morning'. This could be the explanation for the difference in dates between Easty's journal and *Scarborough*, and *Fishburn's* logs.

¹⁰⁴ J Easty, *Transactions Of A Voyage*, p.45.

¹⁰⁵ *HRNSW*, 2, p.408.

¹⁰⁶ *Journal Philip Gidney King*, p.20, and J Scott, *Remarks on a Passage*, p.19.

¹⁰⁷ *Journal Arthur Bowes Smyth*, p.39.

¹⁰⁸ *HRNSW*, 1, Pt.2, p.79. Return of marines aboard the First Fleet vessels as at April 1787, shown as Figure 4.

their duties efficiently, had they been properly directed by Captain Sinclair.

Amongst secondary sources,¹⁰⁹ Bateson, using non-referenced primary sources, stated the convicts' aim was to escape 'at the Cape', rather than at sea. He claimed that John Powers, who tried to escape at Teneriffe, was the ringleader and that he was sent on board *Sirius* where he was heavily ironed and stapled to the deck. Also transferred to *Sirius* were three sailors from *Alexander*. Bateson concludes by stating that a convict informer was moved to *Scarborough* for his own protection.¹¹⁰ M Gillen notes that John Power[s] was stapled to the deck from 6 to 13 November 1787, until after the First fleet sailed, while, as a less likely circumstance, another First Fleet reference book, states that Powers was chained to the deck for the rest of the voyage.¹¹¹

During the fleet's stay at Cape Town from 13 October to 12 November 1787¹¹², the marines began preparing for their security role on disembarkation at Botany Bay. Three days after the fleet's arrival, the marines 'under arms' went ashore for a drill parade.¹¹³ This was the first time the whole battalion had been assembled together, as detachments had embarked separately in England. Three weeks after the parade, officers and men were allocated to one of four companies which would become functioning sub-units on arrival in the new colony.¹¹⁴ Additionally, as a security precaution, on 17 October, Marines Lieutenant Maxwell and Sergeant Scott examined ammunition stored in *Prince of Wales's* magazine and 'found 196 Carteradges Damaged'. These were dried out and reconditioned.¹¹⁵

¹⁰⁹ Including W Oldham, *Britain's Convicts*, p.151, giving it a fleeting mention (quoting King as his source, Note 709).

¹¹⁰ C Bateson, *Convict Ships*, p.109.

¹¹¹ M Gillen, *Founders of Australia*, p.292. D Chapman, *1788 The People of the First Fleet*, North Ryde, 1981, p.165.

¹¹² HRNSW, 1, Pt.2, pp.118 and 121, for arrival and departure dates.

¹¹³ J Easty, *Transactions Of A Voyage*, p.49. Some marines would have remained on board for guard duties.

¹¹⁴ J Easty, *Transactions Of A Voyage*, p.55.

¹¹⁵ J Scott, *Remarks on a Passage*, p.21. No doubt similar checks were carried out on the other transports.

After Cape Town, and for the remainder of the voyage to Sydney Cove, there were no reported mutiny attempts. Nevertheless, amongst the marines, lapses of security and discipline continued, such as drunkenness and disobedience of orders. Throughout the voyage, harsh punishments were imposed to prevent any deterioration in security. Oldham and Bateson give numerous examples of offences and punishments. An unusual offence, involving a marine, was committed by the convict Thomas Barret, on *Charlotte*, who manufactured counterfeit coins from scrap metals such as shoe buckles. At Rio de Janeiro, on 5 August 1787, he was caught using this “money” to buy fresh provisions from a Portuguese boat that came alongside before the fleet entered the port.¹¹⁶ As an accomplice of Barret’s, Private James Baker was disciplined with 200 lashes on 31 August for offering ‘a similar base metal’ coin.¹¹⁷

Easty’s journal records typical examples of marine disciplinary punishments. Referring to himself in the third person, he wrote that on 31 July 1787 ‘in the Evening Wm duglays [Douglas] & Jno Easty Confind and put in Irons for being Drunk on Duty’. They were released the following night.¹¹⁸ Had the guard commander on *Scarborough* decided that the circumstances of this offence warranted a flogging, under military law, this sentence could only be imposed by a court martial, whereas chaining offered an immediate and administratively simple form of punishment. As noted earlier, Easty recorded disciplinary action taken against a marine shipmate, a luckless individual, Private Luke Haines, who on 31 March 1787 was confined for disobeying orders. On 11 August, at Rio de Janeiro, Haines was again confined pending court martial for fighting Marine Thomas Bullmore (who in turn was later confined for fighting on 20 October). As a result, four days later, Haines was sentenced to 200 lashes, but execution of the sentence was delayed as he was sick. This took place on 28

¹¹⁶ J White, *Journal of a Voyage*, p.70. White spells Barret with one ‘t’, but in his entry of 27 February 1788 (p.116), recording that the same man was the first convict hanged in the colony, he spells the name with two ‘t’s.

¹¹⁷ C Bateson, *Convict Ships* p.109, for a marine uttering. D Chapman, *People of the First Fleet*, p.34, for Baker the marine involved and his punishment. Confirmed by J White, *Journal of a Voyage*, p.76. No record has been noted of Barret’s punishment.

¹¹⁸ J Easty, *Transactions Of A Voyage*, p.27.

August, when he received 150 lashes, but, due to his condition, fifty lashes were deferred. By 1 September, Haines was 'released' [sic] presumably from the ship's sick bay, and 'forgiven' the remaining fifty lashes. Then, during heavy seas on the run to Botany Bay, he was hurt in a fall on 28 November. Thereafter, Haines avoided trouble until 2 January 1788, when he was charged with unsoldierly behaviour. He was immediately court martialled and sentenced to 100 lashes, but in this instance, was 'forgiven his Punishment'.¹¹⁹

Disciplinary problems in the colony continued for Haines, culminating in his being hanged in March 1789, together with five other marines, for stealing from government stores.¹²⁰ The pugnacious Bullmore had an even shorter time to live, and in November 1788 died from 'Some Bows [sic] that he recieved [sic] from James Baker when thay ware fighting on the 7 instant'.¹²¹ Baker in turn, who had earlier received 200 lashes for offering counterfeit money (made by Thomas Barret, who was the first convict executed in New South Wales) was one of four marines sentenced to 200 lashes for the manslaughter of Bullmore¹²², he was also one of the six marines hanged with Haines.

After leaving Cape Town, on 25 November 1787, at 'eighty leagues to the eastward', Phillip split the fleet into two convoys, one fast and one slow. By reaching Botany Bay before the main fleet, Phillip had hoped to have completed, in advance, a detailed reconnaissance and plan for the arrival, disembarkation and establishment of a suitable settlement. Such a plan would have helped convicts by ensuring an orderly, and early, transition from crowded ship board conditions to the shore, lessening internal security problems caused by convict discontent. But, as the slow convoy arrived at Botany Bay only one day after Phillip's planned fast convoy, this prior reconnaissance and planning could not be undertaken, Port

¹¹⁹ J Easty, *Transactions Of A Voyage*, pp.4, 30-32, 34, 67, 79.

¹²⁰ J Easty, *Transactions Of A Voyage*, p.111, and see below Chapter 4, pp.87-89.

¹²¹ J Easty, *Transactions Of A Voyage*, p.107.

¹²² HRNSW, 1, Pt. 2, p. 217, four tried in the criminal court for murder and pp.219-220, for result of trial. Easty only mentions involvement of James Baker in his journal.

Jackson had yet to be examined.¹²³

Meanwhile, when the fleet entered the high southern latitudes, weather conditions became more uncomfortable. Combined with the practised routine of ship board security, this justified a reduction in the number of marine sentries. The first concession was made on 10 December 1787, when orders were issued that at night when it rained, only two sentinels were required on deck.¹²⁴ Five days later, a decision was made that only four sentries were required on deck during the day.¹²⁵ With security continuing at this reduced level, the fleet was reunited at Botany Bay. Here Captain Collins acknowledged that 'under the blessing of God, was happily completed in eight months and one week ... a voyage which ... the mind hardly dared venture to contemplate'.¹²⁶ Echoing the same sort of sentiment, Private Easty wrote that after '8 Kellander mounths and 6 days from Endgland [sic] the Bay [Botany] is very hand Some one as Ever I Saw in my Life'.¹²⁷ Despite several plots to mutiny and the extraordinary nature of the voyage, the First Fleet had arrived safely, with the maintenance of security being a significant factor in this achievement.

¹²³ HRNSW, 1, Pt.2, p.50. Phillip had originally hoped to arrive 'two or three months before the transports'. In the circumstances, this would not have been possible with Phillip delaying splitting the fleet until after departing Cape Town. A Frost, *Arthur Phillip*, pp.143-144, for what Phillip could have achieved by arriving early. HRNSW, 1, Pt.2, p.131. Phillip to Sydney of May 1788. For arrival of *Sirius* on 18 January, the fast convoy of three transports on 19 January and slow convoy next day.

¹²⁴ J Easty, *Transactions Of A Voyage*, p.70.

¹²⁵ J Easty, *Transactions Of A Voyage*, p.72.

¹²⁶ D Collins, *An Account* p.10.

¹²⁷ J. Easty, *Transactions Of A Voyage*, p.89.

Chapter 3

Survival and Security

In the embryo colony, matters of security and order were to be significantly influenced by factors quite apart from those of social control. Fewer than four months after arriving at Botany Bay, Phillip reported to the Home Office that 'people were healthy when landed, but the scurvy has, for some time, appeared amongst them, and now rages in a most extraordinary manner.'¹ The struggle to survive was made more difficult by the recalcitrance of the convicts and refusal of the marine officers to supervise them.² Also prolonged periods on starvation rations caused a further decline in health, producing lethargy³, while there was an unavoidable wait while agriculture and animal husbandry developed. The wreck of the supply ship HMS *Guardian* in 1791 was a severe blow in the struggle for survival in the small colony.⁴

Food was not the only necessity in short supply. Surgeon John White appealed to Governor Phillip for medicines as well as food to be obtained from Cape Town, as his stocks 'have long since been expended'. He also requested that sheets and blankets be sent from England for the hospital as 'none were sent out although demanded.'⁵ The situation continued to deteriorate, and in December 1791, Surgeon Harris of the New South Wales Corps reported that the regiment

¹ HRA, 1, 1, p.20. Phillip to Sydney of May 1788.

² HRA, 1, 1, pp.55-56. Phillip to Nepean of July 1788, for convicts and marine officers. Also, p.195, Phillip to Grenville of July 1790, for convict recalcitrance and lack of supervisors.

³ D Collins, *An Account of the English Colony in New South Wales*, Christchurch, undated, p.80.

⁴ HRA, 1, 1, p.185. Phillip to Grenville of June 1790.

⁵ HRA, 1, 1, p.78. White to Phillip of September 1788.

had been sent out to Botany Bay without any kind of medical necessities.⁶

Footwear, including leather to repair soles, was almost non-existent. Captain-Lieutenant Tench recorded that 'Many a guard have I seen mount, in which the number of soldiers without shoes exceeded that which had yet preserved remnants of leather.'⁷ In this environment the marine battalion had to carry out Sydney's directive to not only enforce due discipline on the convicts but to defend the settlement against incursions by the natives.

Before the First Fleet sailed from England, Phillip, pondering the security of the future colony, wrote:-

On landing in Botany Bay it will be necessary to throw up a slight work as a defence against the natives - who, tho' only seen in small numbers by Captn. Cook, may be very numerous on other parts of the coast - and against the convicts; ... [this] will be the work of a few days only; but some small cannon for a redoubt will be necessary. Within the lines the stores and provisions will be secured;⁸

As well as forecasting the need for some defensive precautions against both the Aborigines and convicts, to minimise internal dissent Phillip planned that convicts be located separately from both the garrison and Aborigines.⁹ However, in establishing the 'camp' at Sydney Cove, topography together with the amiable behaviour of the convicts, changed Phillip's preplanned priorities. A press report of 1789 described the establishment of the camp and security measures undertaken:-

The moment Commodore Phillip had made good the landing of the Marines, and some lines of limitations were marked out, the Convicts were put on shore; and the Artizans [sic] amongst them ... proceeded to cut down wood to form their habitation ... in the evening the workmen and others returned on board ... leaving only the Marines, and a detachment of Seamen, to guard the works as they advanced towards completion. The natives, when they discovered the preparations on foot, and that their visitors were likely to become stationary, appeared so dissatisfied, that several pieces of ordnance were mounted on the lines to awe them: they however kept at a distance, and though they did not provoke a fire, they declined all communication.¹⁰

⁶ HRA, 1, 1, p.318. Harris to Phillip of December 1791.

⁷ W Tench, 1788, *Comprising A Narrative of the Expedition to Botany Bay and A Complete Account of the Settlement at Port Jackson*, Melbourne, 1996, p.124.

⁸ HRNSW, 1, Pt. 2, p.52. Undated views by Phillip.

⁹ HRNSW, 1, Pt. 2, p.52.

¹⁰ *Newspaper cuttings album 1770-1857*, article published 1789, NLA, MS4658. No folio pagination or bibliography except year of publication notated for each article.

With neither the convicts nor Aborigines showing undue belligerence, Phillip did not order the building of a redoubt. Instead, the marines maintained order in camp by patrols and sentry posts, and outside the camp by providing armed escorts. While Phillip had to juggle numerous conflicting priorities, which initially did not justify defensive works, his lieutenant-governor, Major Ross, exhibited a traditional attitude on fortifications, possibly influenced by his North American experiences fighting the French then Americans.¹¹ Six months after the landing, Ross commented to the Admiralty:-

I must observe to their Lordships that the detachment [of marines] is at this hour without any kind of place of defence to retire to in case of an alarm or surprize, tho' I have, in justice to myself, repeatedly mention'd and urged his Excellency to get something or other erected (sic) for that purpose.¹²

Ross' lack of loyalty to Phillip and sense of displeasure when his advice was not followed is evident here. Ross also demonstrated a certain mental rigidity in his inability to appreciate the low level of security threat after six months in the colony.

Ross justified his denunciation of Phillip by referring to an incident in which two rush cutters were murdered only 'a few weeks past'. He blended recounting the horror of this incident with an apparently contradictory argument that the Aborigines showed no inclination to come near. By virtue of his observations, Ross drew the conclusion that the Aborigines were not the harmless, inoffensive race they had been represented to be.¹³ Hence there was need for a redoubt. Six weeks before this formal complaint, on 31 May 1788, Phillip had visited the site where the two men were murdered and their bodies mutilated. Because the murdered men had earlier interfered with native canoes, in Phillip's opinion, the natives were not the aggressors.¹⁴ With no reason to disbelieve Phillip's account, Ross' letter of 10 July, representing that this incident proved that the Aborigines were a serious threat, may have been a deliberate exaggeration or a serious lack of judgment.

¹¹ J Moore, *The First Fleet Marines 1786-1792*, St Lucia, 1987, pp.34-35, for Ross' service.

¹² HRNSW, I, Pt. 2, p.171. Ross to Secretary of the Admiralty, of July 1788.

¹³ HRNSW, I, Pt. 2, p.171.

¹⁴ HRNSW, I, Pt. 2, p.148. Phillip to Sydney of July 1788.

Nevertheless, precautions against native raids were necessary, with sentries being especially vigilant by night. One incident involved a night sentry who alerted the guard commander that about thirty Aborigines were approaching the camp in a hostile manner. The officer, while taking 'every precaution to prevent an [Aboriginal] attack, ... at the same time gave orders that no molestation, while they continued peaceable, should be offered them.' When the ship's bells rang the hour and the sentries called 'All's well', subsequent sounds made by the Aborigines indicated they were startled and had slipped away. Tench later supposed that their intentions were either 'to pilfer or to ascertain in what security we slept'. While this incident appears to vindicate Phillip's, as opposed to Ross' view on building a redoubt, Tench used it to support Ross' argument.¹⁵

Despite Ross' criticism, Phillip was fully conscious of the need for fortifications. From his subsequent orders, it is obvious that Phillip believed the most likely threat was from a foreign maritime incursion. With a lack of cannon and defenders, Phillip could not cover the shipping channel at Sydney Heads nor the numerous landing sites inshore between the Heads and Sydney Cove. He only had the capability to construct limited defence works on the foreshore approaches to the cove. Phillip appointed Second Lieutenant William Dawes as engineer and artillery officer,¹⁶ and amongst his orders was the directive that a battery be built to defend Sydney Cove (Figure 6¹⁷). As a result, an earth redoubt mounting two six pounder cannon was constructed at what is now Bennelong Point. This was later replaced by a substantial work with eight six pounders on the western side of the cove at Point Maskelyne, now Dawes Point. Subsequently, the battery at Bennelong Point was allowed to fall into a state of disrepair as was a small battery built on the northern end of Garden Island.¹⁸

¹⁵ W Tench, *Narrative of the Expedition*, p.79, for detail in this paragraph.

¹⁶ HRNSW, 1, Pt.2, p.172. HRA, 1, 1, p.46, also p.724, Commentary Note 41, for Dawes' career.

¹⁷ *The Voyage Of Governor Phillip To Botany Bay with contributions by other officers of the First Fleet and observations on affairs of the time by Lord Auckland*, introduced and annotated JJ Auchmuty, Sydney, 1970, Figure 6 chart facing p.80.

¹⁸ TR Frame, *The Garden Island*, Kenthurst, 1990, pp.54-55, for Sydney Cove batteries, and p.58, for a Garden Island battery, built in 1799, of a four pounder and six pounder gun.

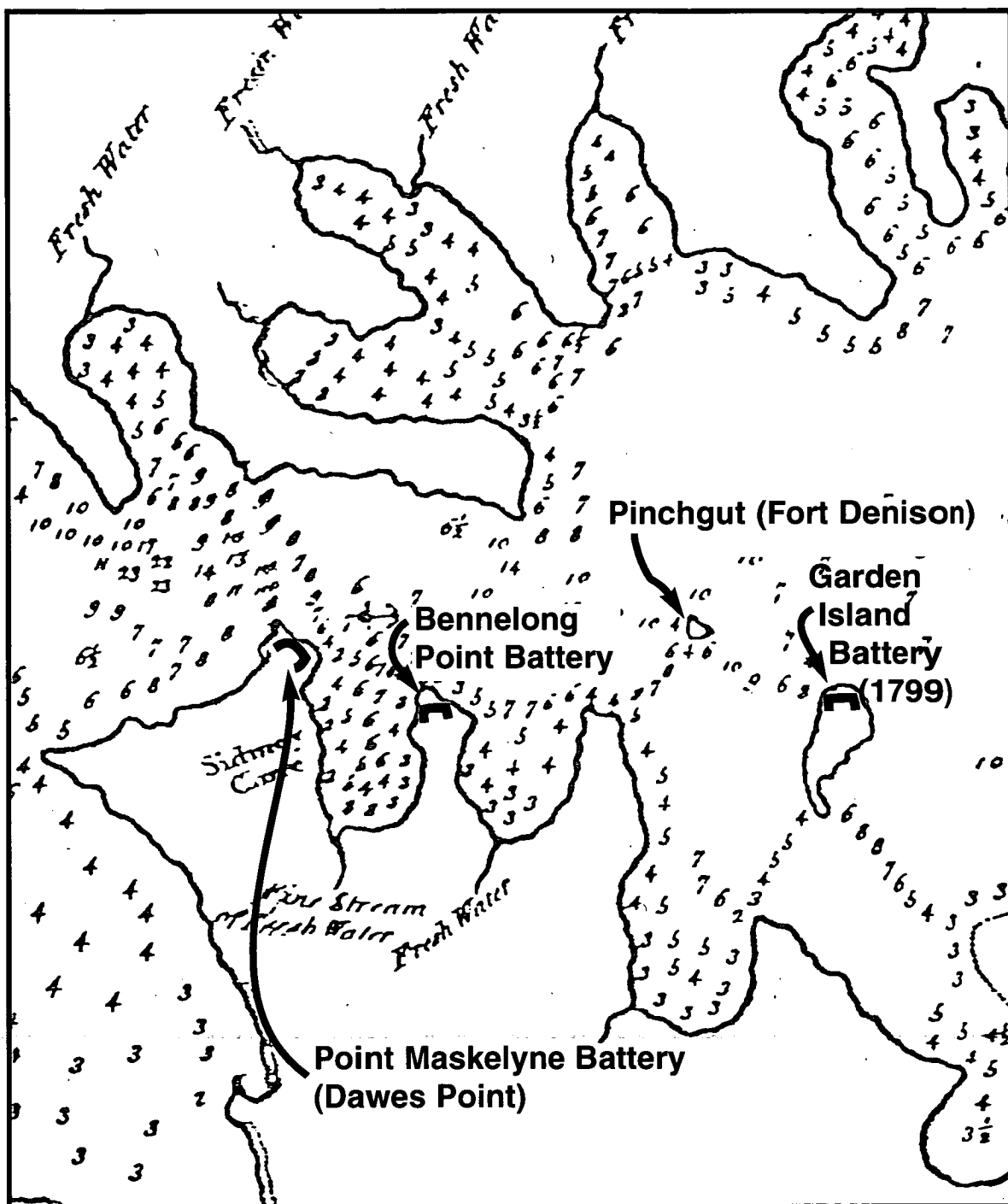


Figure 6: Batteries protecting approaches to Sydney Cove

While Phillip took precautions against external threat, his greatest problem remained maintenance of order with convicts able to move with ease around the open penal camp. A temporary Government House was located on the eastern side of the cove 'with a large body of convicts encamped near[by].'¹⁹ The marine officers' huts and other ranks' tents and barrack huts (then under construction) were centrally located at the head of the cove on the western side of the Tank Stream. Further around the western foreshore were one or two stores huts, the male and female convict tent lines, hospital and finally the observatory on the western headland. To maintain order in this scattered settlement, also to prevent Aboriginal infiltration, the marine battalion provided two guards, each of one subaltern, one sergeant, two corporals, one drummer and twenty one marines.²⁰ Probably one guard was mounted near Government House and the other on the western shore to guard store huts and the convict lines. Tench noted that to provide 'public security ... directions to use force, in case of necessity [were given and offenders could] perish by the bayonet.'²¹ This was no idle threat as marine sentries mounted night duty with loaded muskets to enforce a curfew.

Another of Phillip's major concerns while awaiting regular shipments from England, was conserving those stores including food, which had arrived with the First Fleet, and developing some self-sufficiency of food supply. Unfortunately, the open prison system and shortage of supplies resulted in thieving becoming a major problem. In a speech to the convicts, Phillip gave early warning that he would not tolerate crime. This caution followed the military and civil ceremonial on the morning of 7 February 1788, at which Phillip's commission and letters-patent for

¹⁹ W Tench, *Narrative of the Expedition*, p.44.

²⁰ W Tench, *Narrative of the Expedition*, p.44. Tench referred to 'two guards, consisting of ... [double the total number of all ranks as listed in the text above]'. Logic indicates that the figures quoted by Tench related to the grand total of the two guards, with one of the four companies rostered each twenty-four hours.

²¹ W Tench, *Narrative of the Expedition*, p.44.

the establishment of civil and military courts in the colony were read.²² He then addressed the assembled convicts declaring that:-

he should be ever ready to show approbation and encouragement to those who proved themselves worthy of them by good conduct; while, on the other hand, such as were determined to act in opposition to propriety, would inevitably meet with the punishment they deserved.²³

Four days after Phillip's warning, Collins recorded that to check various 'enormities' of crime, it was necessary to assemble the first Court of Criminal Judicature.²⁴ Tench described the working of this court of seven members (the Judge-Advocate and six officers of His Majesty's sea or land forces) which 'is altogether new in the British annals'. In capital cases, no death sentence could be given unless five, at least, of the seven members present concurred.²⁵ In his first dispatch from the colony, Phillip referred to the necessity for assembling the criminal court and that six men were condemned to death.²⁶ This report of the court's findings was incorrect,²⁷ as at the court's first sitting on 11 February 1788, only three convicts were tried and none were condemned.²⁸ Samuel Barsby received 150 lashes for assault on Drum Major Benjamin Cook.²⁹ In Private Easty's opinion, this was a trifling punishment for what he called 'Mutany'.³⁰ A second convict was convicted for theft and 'confined for a week upon a small rocky

²² W Tench, *Narrative of the Expedition*, p.46. J Scott, *Remarks on a Passage to Botany Bay 1787-1792, A First Fleet Journal*, Sydney, 1963, pp.35-36. J Easty, *Memorandum of the Transactions Of A Voyage From England To Botany Bay 1787-1793, A First Fleet Journal*, Sydney, 1965, p.96, for military activities.

²³ D Collins, *An Account*, p.14, for civil ceremony.

²⁴ D Collins, *An Account*, p.15.

²⁵ W Tench, *Narrative of the Expedition*, p.48. 'Letters Patent Constituting the [Colony's] Courts of Law' confirm Tench's statement (HRNSW, 1, Pt.2, pp.74-75).

²⁶ HRA, 1, 1, p.22. To Sydney of May 1788.

²⁷ HRA, 1, 1, p.716, Commentary Note 14, for inaccuracies in Phillip's dispatch of May 1788. Collins was confused over the name of the first convict executed. This death sentence was passed at the second sitting of the criminal court. He stated (D Collins, *An Account*, p.15) that James Barrell was hanged. In fact, Thomas Barrett was the first convict executed, on 27 February, and James Bennet, or Bennett, on 1 May 1788. J White, *Journal of a Voyage to New South Wales*, Sydney, 1962, pp.116 and 132. J Easty, *Transactions Of A Voyage*, pp.98 and 101, gave Bennet(t)'s first name as John ['Jno'] and dates the execution as 2 May.

²⁸ J Easty, *Transactions Of A Voyage*, p.97.

²⁹ J Moore, *First Fleet Marines*, pp.98-99, for details.

³⁰ J Easty, *Transactions Of A Voyage*, p.97.

island on bread and water.³¹ This island became known as Pinchgut, now Fort Denison (Figure 6). The third man was acquitted. Tench noted that to maintain security whilst the court was sitting, it was:-

surrounded by a guard under arms, and admission to everyone who may choose to enter is granted. Of late, however, our colonists are supposed to be in such a train of subordination as to make the presence of so large a military force unnecessary, and two sentinels (in addition to the provost-martial) are considered as sufficient.³²

For initial sittings of the criminal court, this was a deliberate show of force to discourage any convict attempt to obstruct justice, while giving spectators confidence that justice would be done.

Collins, as deputy judge-advocate, presiding over the court,³³ was concerned that in the first sittings of the Criminal Court 'The mildness of these punishments seemed rather to have encouraged than deterred others'.³⁴ He had cause to express this view, particularly in Barsby's case where insolence by convicts against the military, if not repressed, would weaken the marines' disciplinary hold over the convicts. By the Criminal Court's second sitting, shortages of supplies had worsened, with thieving becoming endemic. Therefore, members of the court took a tougher stance. Tench noted that 'the day was at hand on which the violation of public security could no longer be restrained by the infliction of temporary

³¹ D Collins, *An Account*, p.15.

³² W Tench, *Narrative of the Expedition*, p.48.

³³ W Tench, *Narrative of the Expedition*, p.48. To establish under law whether; firstly the accused was guilty and if so, secondly, the sentence; required two separate decisions of the court's members. Their opinions were given in turn 'beginning with the youngest member [of the court] and ending with the president'. Thus, although Collins, as president, may have been in a position to informally influence the decisions of the court, legally his opinions on guilt, and later the sentence, were respectively given after all other members had advised their decisions. This practice is still followed in military courts martial, except the ascending order commences with the most junior officer in rank, not age (possibly written in error by Tench in the above quotation). Also the functions of president and judge-advocate are now separated. Nevertheless, this legally explains why Collins, as judge-advocate, could complain of the light sentences imposed by a court of which he was president.

³⁴ D Collins, *An Account*, p.15.

punishment.³⁵ That day came on Wednesday, 27 February 1788.³⁶

Sergeant Scott recorded that on 27 February, 'Thos. Barrett, a Convict, Was tried for Breaking Open the Publick Stores, & Exacuted the Same Evening at 6. OClock'.³⁷ During the execution, security was tight with Major Ross and his marine battalion present under arms,³⁸ 'in case an insurrection sh'd take place (as was wisp'd ab't) or a rescue sh'd be attempted.'³⁹ This was a reasonable precaution as Phillip 'obliged' all convicts to be present to witness the execution,⁴⁰ which took place from 'the Arm of a large Tree situated between the Tents of the Men & Women Convicts'.⁴¹ The reluctant convict hangman, only carried out his task after he had been 'severely threaten'd' by Major Ross, that otherwise the marines would be ordered to shoot him.⁴² Phillip was apparently determined to drive home a severe warning to the convicts, as he indulged in an act of macabre theatre with two other convicts, 'Heny. Lovel & Jos. Hall'⁴³, who were due to be hanged with Barrett. At the scaffold, Ross announced that these two were to be reprieved for twenty-four hours. White explained what happened the following afternoon:-

When the awful hour arrived, they were led to the place of execution, and, just as they were on the point of ascending the ladder, the judge advocate arrived with the governor's pardon, on condition of their being banished to some uninhabited place.⁴⁴

Phillip intended that this banishment was to be near the South Cape of Van

³⁵ W Tench, *Narrative of the Expedition*, p.49.

³⁶ Confirmed by the journals of White (*Journal of a Voyage*, p.116), Scott (*Remarks on a Passage*, p.36), Easty (*Transactions Of A Voyage*, p.98) and Surgeon Bowes (HRNSW, 2, p.394). But, in *The Journal of Arthur Bowes Smyth: Surgeon, Lady Penrhyn 1787-1789*, eds. PG Fidlton and RJ Ryan, Sydney, 1979, p.75, Bowes gives the date as the 26 February. This may be a transcribing error from the original copy as described pp.xv-xviii.

³⁷ J Scott, *Remarks on a Passage*, p.36.

³⁸ W Tench, *Narrative of the Expedition*, p.50.

³⁹ HRNSW, 2, p.394, quoting Bowe's *Journal*.

⁴⁰ W Tench, *Narrative of the Expedition*, p.50.

⁴¹ *Journal Arthur Bowes Smyth*, p.75.

⁴² *Journal Arthur Bowes Smyth*, p.75.

⁴³ J Scott, *Remarks on a Passage*, p.36. D Chapman, 1788 *The People of the First Fleet*, North Ryde, 1981, p.138, spelling 'Lovell', and *Voyage of Governor Phillip*, p.273, spelling 'Lavell, Henry'.

⁴⁴ J White, *Journal of a Voyage*, p.116.

Diemen's Land, where 'by their forming connexions with the natives, some benefit may accrue to the public.'⁴⁵ Presumably, other events overtook this drastic punishment as Hall and Lovell were sent to Pinchgut until their sentence of banishment to South Cape was remitted in celebration of the King's birthday on 4 June 1788.⁴⁶ On this occasion, the log book of the transport *Alexander* recorded that 'four convicts [were] pardoned who were under sentence of death.'⁴⁷ As Hall and Lovell had been initially sentenced to death, it is likely they were amongst these four.

Precautions against a convict insurrection when Barrett was executed, were vindicated by an attempt made against Lieutenant King's administration on Norfolk Island.⁴⁸ The first indication of trouble came shortly after the island received additional numbers from the mainland on 13 October 1788⁴⁹. This group of twenty-one male and eleven female convicts was accompanied by a party of one midshipman and nine marines and sailors.⁵⁰ On 25 October, one of these convicts, Leonard Dyer, received '4 dozen lashes for Mutinous Expressions & daring Language to Mr Donovan'.⁵¹ With these additional convicts on the island, King must have felt uneasy about internal security, recording on 31 December 1788 that:-

Having Six Musquets, besides the Marines Arms, I judge it proper to instruct all the Free people on the Island (being Six) In the use of Fire arms In case of the Marines being sick or any other exigency wherefore I gave orders to the Sergeant & Corporal of Marines to exercise them regularly every Saty Morning As well as the Marines - when the former are tolerable expert, I mean that they shall fire half a dozen rounds once a Month - which is putting the Island In the best state of defence in my power⁵²

In addition to establishing a militia, from this time a military picquet was mounted

⁴⁵ HRA, 1, 1, p.22. Phillip to Sydney of May 1788. This is the first reference to Van Diemen's Land being used as a place of further exile. Phillip does not explain what public benefit may accrue from such a 'connexion'.

⁴⁶ D Chapman, *People of First Fleet*, p.110. Hall remained on Pinchgut until the King's birthday in June. Chapman (p.138) is not concise on Lovell, sentenced to death in June 1788, then banished to Norfolk Island for life.

⁴⁷ HRNSW, 2, p.401.

⁴⁸ See above, Chapter 1, for island's settlement.

⁴⁹ *The Journal of Philip Gidney King: Lieutenant, R.N. 1787-1790*, Sydney, 1980, pp.136-137.

⁵⁰ HRNSW, 1, Pt. 2, p.209. Detail including composition of the military party.

⁵¹ *Journal Philip Gidney King*, p.147. Midshipman Donovan arrived on the same ship as Dyer in October.

⁵² *Journal Philip Gidney King*, p.174.

every night.⁵³

King's concern over security remained high, and on Friday, 23 January, he recorded 'At noon read the Articles of War, As well as the Rules & Regulations for the Marines when serving on shore'.⁵⁴ Such a military parade was a solemn occasion as it reminded the garrison's marines of their duties and draconian punishments for breaches of the Articles.⁵⁵ The following day, possibly by coincidence, a planned insurrection was exposed.⁵⁶

The convict plot on Norfolk Island hinged on two factors; that *Sirius* must be standing off shore on a Saturday, whilst at the same time King and the marines were following their normal Saturday routine. On that day King usually went to his farm outside the main settlement. There, it was intended he be seized, while a convict took a message back to the settlement claiming King required to see senior personnel at his farm. They in turn would be seized. Meanwhile, the marines who were usually in 'the woods to get cabbage-tree' would also be confined on their return and the island secured. Having detained the first boat's crew to come ashore from *Sirius*, two convicts would then row out in one of the island's small craft to advise the ship their boat had been staved in landing. Whereupon, the convicts anticipated another ship's boat would come ashore, and in turn these sailors would also be detained. The convicts 'were then to go and take possession of the ship, with which they intended to go to Otaheite [Tahiti].'⁵⁷ This plan was betrayed by a

⁵³ D Collins, *An Account*, p.52.

⁵⁴ *Journal Philip Gidney King*, p.189.

⁵⁵ *Manual of Military Law (MML)*, London, 1914, p.13. The Mutiny Act of 1712 made the wartime Articles applicable to troops serving overseas in peacetime. The Articles of War were enforceable in New South Wales and its dependencies by virtue of the Mutiny Act of 1718, authorising the application of the Articles to the British Army within the kingdom and 'in any of His Majesty's dominions beyond the seas.' The significance of the Rules and Regulations for the Marines when serving on shore was that these made marines subject to the Articles of War, as opposed to naval discipline.

⁵⁶ *Journal Philip Gidney King*, p.189.

⁵⁷ *HRNSW*, 1, Pt.2, p.294. Phillip to Sydney of February 1790. D Collins, *An Account*, p.50. Captain Willis took possession of Otaheite (Tahiti) in 1767 for Britain. In 1768, Bougainville also claimed the island for France, which in the same year was visited by Cook. These visits spread the fame of Tahiti as a place of delightful refuge. It could be no coincidence that the Norfolk Island convicts planned to escape there, and that two months later the mutiny on HMS *Bounty* centred around return to Tahiti.

woman convict who was living with Robert Webb, a member of *Sirius*'s crew domiciled on the island.⁵⁸

King recorded that on Saturday 24 January 1789 'at 9 AM Robert Webb ... informed him that a plan was laid by the Convicts to take the Island.' Then with information gained in different depositions, he had the suspected ringleaders arrested. As a defensive precaution, King moved the marines' and free settlers' accommodation 'round the Store houses & [then] caused every person to come in out of the Country'⁵⁹ where, as a Saturday indulgence, the convicts were allowed to work on their own gardens.⁶⁰ On Monday morning, King formally examined witnesses on oath, keeping irons on three and releasing one who appeared less guilty. That afternoon, no doubt as a defensive measure, by clearing ground for all round fields of fire, the convicts were employed 'Cutting down trees & opening an avenue round the Command'ts house.' Next day, Tuesday, further ground was cleared 'to place the Convicts by themselves.'⁶¹ Later, on the return of the next ship to Sydney Cove, the ringleader was sent there to be tried for his life, but no capital punishment could be inflicted as no attempt had been made to carry the scheme into execution.⁶² Subsequently, when *Supply* next visited, the island's garrison was increased by a lieutenant, a non-commissioned officer and fourteen privates, together with two guns intended to be placed in a small redoubt. Phillip considered these reinforcements would prevent the convicts making further attempts.⁶³

Meanwhile in Sydney, as supply conditions worsened, executions and floggings did not discourage thieving. Phillip reported to London that 'individuals had ... suffered by having their gardens robbed, or by losing of poultry, [therefore] I

⁵⁸ D Chapman, *People of First Fleet*, p.196. Webb sailed with King when Norfolk Island was first settled. He lived with Elizabeth Henderson, who initially gave him warning of the plot. They married in Sydney in 1791.

⁵⁹ *Journal Philip Gidney King*, p.189.

⁶⁰ *Journal Philip Gidney King*, p.184-185. Confirmed by King's entry of Saturday, 17 January 1789.

⁶¹ *Journal Philip Gidney King*, p.191.

⁶² *HRNSW*, 1, Pt. 2, p.294.

⁶³ *HRNSW*, 1, Pt. 2, p.295.

found it necessary to establish a watch'.⁶⁴ Collins remarked that 'the first attempt towards a police [force] was commenced by establishing a night-watch'.⁶⁵ With no free settlers available for recruitment, the watch was made up from selected convicts. Whilst on duty, each was provided with a short staff for identification.⁶⁶ This watch is of historical interest as it was the first small move in the long process of transferring responsibility for maintenance of order from military to civil power.⁶⁷ It also created additional tension between Phillip's civil government and the military, when Ross belatedly made representations against his marines being subjected to the convicts of the watch.

Prior to the establishment of the watch, suitable regulations had to be framed. Ross was consulted and had amendments incorporated in the draft of this document.⁶⁸ At this time, he raised no objection to the wording of the fifth clause which read:-

Any soldier or seaman found stragling [sic] after the taptoo has beat, or may be found in the convicts' huts, is to be detained, and information to be immediately given to the nearest guard-house.⁶⁹

The regulations were signed into effect by Phillip on 7 August 1789,⁷⁰ and the watch worked efficiently to the extent that for three months no robbery was committed at night. The watch was 'cautioned against having any dispute with a soldier or sailor' and during this period no complaints about the behaviour of the watch were received. Indeed, 'they acted very properly on several occasions when they met with soldiers or sailors in the night ... [who] when stopped ... were left at the guard-house till next morning, when, if nothing criminal was laid to their charge,

⁶⁴ HRA, 1, 1, p.134. Phillip to Sydney of February 1790.

⁶⁵ D Collins, *An Account*, p.61.

⁶⁶ D Collins, *An Account*, p.62.

⁶⁷ HRA, 1, 2, p.69. Phillip's concept was reintroduced by Hunter when he became governor. In a Government and General Order of November 1797, Hunter appointed 'constables' for 'the preservation of peace and good order as for the security of property generally'. The Duke of Portland approved this 'system of police' in September 1798 (p.226). See below, Chapter 12, p.319 and footnote 79, for comment on Macquarie's 'Police Regulations for the Town of Sydney' (HRA, 1, 7, pp.406-412).

⁶⁸ HRA, 1, 1, p.134. Phillip to Sydney of February 1790.

⁶⁹ HRA, 1, 1, p.138.

⁷⁰ HRA, 1, 1, p.139.

they were delivered to their proper officers.’⁷¹

The successful functioning of the watch was jeopardised when Ross unexpectedly complained to Phillip after a marine was apprehended in the convicts camp, and delivered, as usual, to the guard. When Phillip tried to reason with Ross that ‘Soldiers had been frequently stopped in the night by the watch ... in the convicts’ camp or in suspicious places ... preventing many robberies’, Ross would not accept this argument. He repeatedly claimed that a soldier being stopped, when not committing an unlawful act was an insult to the corps.⁷² Phillip finally succumbed to Ross’ persistence and had the fifth clause rescinded. Nevertheless, he noted ‘having examined the report made by the captain of the day to his commandant ... I saw nothing which ... could be deemed an insult to the corps’.⁷³ Meanwhile, Phillip was not aware that Ross declared the marines would not ‘be controuled [sic] by the convicts, while they [the marines] had bayonets in their hands.’ Phillip only learnt of this inflammatory statement after the matter was settled, and commented to London ‘I should not [at the time] have been induced to have withdrawn the order ... by so pointed a menace’.⁷⁴ This incident emphasises the difficulties that Phillip had in his dealings with his lieutenant-governor which was not conducive to the maintenance of good order, upon which rested the colony’s internal security.

A contributing factor to the establishment of the night watch was the repeated raiding of vegetable gardens by runaway convicts as the open prison system at Sydney Cove, later duplicated at outlying settlements such as Rose Hill (later Parramatta⁷⁵), gave convicts the opportunity to stray. As an early indication of this problem, at the muster parade on 7 February 1788, when Phillip’s commission was

⁷¹ HRA, 1, 1, pp.134–135.

⁷² HRA, 1, 1, p.135. Possibly Ross objected because the marine was not actually ‘found in the convicts’ huts’ as specified in Clause 5. However, the marine was certainly ‘stragling’ in the convicts’ camp.

⁷³ HRA, 1, 1, p.136.

⁷⁴ HRA, 1, 1, p.135. Around the settlement, the marines wore their bayonet side arms.

⁷⁵ W Tench, *Narrative of the Expedition*, p.203.

read, Collins noted that nine convicts were missing. Also, it was impossible to prevent them straggling, and despite fears of danger from Aborigines, many convicts solicited crewmen of La Perouse's expedition to be taken on board the French ships.⁷⁶ For those convicts who made the short overland trek to Botany Bay before the French sailed on 10 March 1788, Phillip recorded that these approaches were rejected by the French 'with great propriety'.⁷⁷ These early runaways were the start of a recurring pattern of convict escapes.

From contemporary accounts, it is apparent runaway convicts during Phillip's administration did not menace security. With the scarcity of food in the colony, it made little difference whether convicts who stole by night crept from their sleeping lines, or from the surrounding bush, where they hid from both the Aborigines and authorities. In December 1791, Tench noted that no less than thirty-eight convict men were missing, living in the woods by day, and at night plundering gardens for subsistence.⁷⁸ A mass escape occurred on 1 November 1791, when twenty-one recently arrived Irish convicts, including a pregnant female, absconded in a deluded attempt to walk 'to *China* [Tench's emphasis]'. Tench's account of the incident gave the impression that in this case search parties were sent out more to save rather than arrest and punish the escapees as had been threatened by Phillip.⁷⁹ This view is supported by Collins who mentions that, by chance, the female was found by a ship's boat on the northern shore of Port Jackson. Next day, her husband was also rescued by a boat, and for several days boats were sent out searching for others in the group.⁸⁰

While sympathy was shown for the Irish escapees, who were undernourished yet still had to labour,⁸¹ no leniency was shown to runaway convicts fleeing from crimes committed in the colony. Despite any extreme privations

⁷⁶ D Collins, *An Account*, p.14. See above, Chapter 1, pp.11-13 and Figure 2, for details of La Perouse's expedition and Phillip's reaction.

⁷⁷ *Voyage of Governor Phillip*, p.46.

⁷⁸ W Tench, *Narrative of the Expedition*, p.212.

⁷⁹ W Tench, *Narrative of the Expedition*, pp.208-209.

⁸⁰ D Collins, *An Account*, p.131.

⁸¹ D Collins, *An Account*, p.132.

suffered as a result, these convicts were not treated lightly. In the case of Edward Corbett, Phillip advised London that a convict 'who had committed a robbery, and absconded on 5 June [1788], returned on 24 June, almost starved'. Phillip then described Corbett's terrible hardships, but nevertheless he was tried, pleaded guilty, and hanged with another convict.⁸² On 25 June 1788, the day after Corbett's return, Easty wrote 'this day Saml Peaton and Edward Corbit was Excuted'.⁸³

The likely options for convicts who escaped into the bush were death, survival by stealing until apprehended, or giving themselves up. Phillip's assessment of the situation was that preventing these desertions was impossible but that this 'evil ... will cure itself'.⁸⁴ London was apparently unconcerned by reports of these runaways as they were unlikely to escape back to England. The same sanguine view was not taken over escapes by sea. From the commencement of the settlement, regulations were gazetted to prevent this. In Phillip's instructions of February 1788, for the establishment of a settlement on Norfolk Island, King was instructed that:-

You will be furnished with a four-oared boat, and you are not on any consideration to build or permit the building of any vessel or boat whatever that is decked, or any boat or vessel that is not decked, whose length of keel exceeds twenty feet; and if by any accident any vessel or boat that exceeds twenty feet keel should be driven on the island, you are immediately to cause such boat or vessel to be scuttled, or otherwise rendered unserviceable⁸⁵

This, and similar orders issued to control boat building and use of small craft in Sydney Cove, was intended to prevent convicts absconding by sea. After an escape by boat in 1790, existing regulations were further tightened.⁸⁶

Small boats were required for fishing to supplement the colony's short

⁸² HRNSW, 1, Pt. 2, p.150. Phillip to Sydney of July 1788.

⁸³ J Easty, *Transactions Of A Voyage*, p.104. D Chapman, *People of First Fleet*, p.77, lists this man as 'Edward Cormick also Corbett', who surrendered because he was 'frightened by an earthquake'. Easty (p.103) records that the earthquake took place at 4pm on 22 June 1788.

⁸⁴ HRA, 1, 1, p.309. Phillip to Nepean of November 1791.

⁸⁵ HRNSW, 1, Pt.2, pp.137-138.

⁸⁶ These boat building restrictions for security, are separate from, and unrelated to, Phillip's Instructions, for the prevention of trade with 'the settlements of Our East India Company ... the coast of China, and the islands ... [colonised] by any other European nation' (HRA, 1, 1, p.15).

rations. Controlling these craft was difficult in the face of the convicts' determination to use them in escape bids, creating a continual internal security problem. In 1790, five men used a stolen punt to travel from Parramatta to Sydney where they stole a 'very small and weak' boat, with few stores and with one week's rations 'they purposed [sic] steering for Otaheite'. A seaward search failed to find any trace of them and it was considered that they died at sea.⁸⁷ Surprisingly, in 1795, when HMS *Providence*, due to bad weather, put into Port Stephens, four men barely recognisable as white, surrendered. One had died, while the other four had been well treated by the local Aboriginal tribe, who considered them to have been resurrected tribal forebears who had fallen in battle, and returned from the sea to visit them.⁸⁸

Meanwhile, in contrast to the ill conceived venture of the five convicts; in 1791, a successful escape to Timor of eleven persons, involved careful planning and preparation, determined execution, recapture due to misadventure, and ultimately, the surprise pardoning in England of the lone survivor, Mary Bryant.⁸⁹ The leader was Mary's husband William, an experienced fisherman, who, until lashed for privately selling fish, controlled the fishing boats employed in Port Jackson to supplement rations. Demoted, he continued, under close supervision, working on fishing boats. Despite this, Bryant stockpiled escape stores including two muskets, one hundred pounds each of rice and flour and fourteen pounds of pork.⁹⁰ He also obtained a compass, quadrant and chart, most likely from the Master of the Dutch ship *Waaksemheyd*. The escape party consisted of William and Mary, their two children, and seven other convicts, one of whom had navigational experience. Of the eight men, five had had experience in boat handling. Waiting until there were no ships in port to give chase, they loaded the governor's well-found six oar cutter,⁹¹ and slipped out of the harbour unobserved on the night of 28 March 1791.

⁸⁷ D Collins, *An Account*, p.99.

⁸⁸ D Collins, *An Account*, pp.250-251.

⁸⁹ CH Currey, *The Transportation Escape and Pardoning of Mary Bryant*, Sydney, 1983, *passim*.

⁹⁰ CH Currey, *Escape of Mary Bryant*, pp.12-13.

⁹¹ CH Currey, *Escape of Mary Bryant*, pp.14-15.

Eventually all arrived safely in Timor⁹² (Figure 7⁹³). This incident demonstrates a breach in the colony's security, and as a consequence Collins recorded:-

Orders were given for limiting the length of such boats as should be built by individuals to a size as might deter the convicts from attempts to take them off. Also regulations as to the people employed in boats after sunset, whose names were to be given in writing to the officer on guard, to prevent any convict taking them from the wharves under pretence of fishing or other services.⁹⁴

This order published on 9 April 1791, stated that except where prior permission was given, no boat was to be built whose length exceeded 14 feet.⁹⁵ This was a further tightening of the restrictions imposed after the five convict escaped in 1790.⁹⁶

Subsequently, Collins noted that when it became known the Dutch had arrested the escapees in Timor, handing them over to a British naval captain, other attempts to flee there were discouraged.⁹⁷ This discouragement assisted security as this form of escape 'during the absence of the King's ships [from Port Jackson] ... was never difficult'.⁹⁸

Precautions also had to be taken against convicts endeavouring to stow away on departing ships, as they had attempted to do on La Perouse's vessels. Often convicts were aided and abetted by ships' masters who were short of crew. Not only convicts, but dissatisfied Royal Naval sailors, made their escape in this way.

⁹² D Collins, *An Account*, pp.112-113 and 149-150. W Trench, *Narrative of the Expedition*, pp.180-181. Trench returned to England, on HMS *Gorgon*, which at Cape Town took on board six of Bryant's convict party, of whom four died in transit and one apparently committed suicide. Previously Trench had travelled out to the colony in the same ship as Mary Bryant and a male who later joined Bryant, and presumably knew the others in the small colony, Trench was knowledgeably situated to interview the Bryant survivors. In a long footnote (pp.181-183), Trench recounts their adventures and misfortunes. His summary was 'They had miscarried in a heroic struggle for liberty after having combated every hardship and conquered every difficulty.' *HRA*, 1, 1, p.269 for passing mention by Phillip of the sea escapes of 1790 and 1791, also p.369 for names of escapees in 1791, including record of deaths of Bryant's children. Scott who was also on *Gorgon*, recorded that on 6 May 1792, the last of Mary's two children died (J Scott, *Remarks on a Passage*, p.82).

⁹³ CH Currey, *Escape of Mary Bryant*, Figure 7 facing p.1.

⁹⁴ D Collins, *An Account*, p.115.

⁹⁵ *HRNSW*, 1, Pt.2, p.486.

⁹⁶ W Trench, *Narrative of the Expedition*, p.181.

⁹⁷ The escapees remained free for a period in Timor. The Dutch authorities suspicious of their account that they were survivors from a wrecked ship, arrested them. They were handed over to Captain Edwards, who had commanded HMS *Pandora*, carrying *Bounty* mutineers, which sunk in northern Queensland waters. *Pandora*'s survivors were making for Batavia via Timor.

⁹⁸ D Collins, *An Account*, p.150.

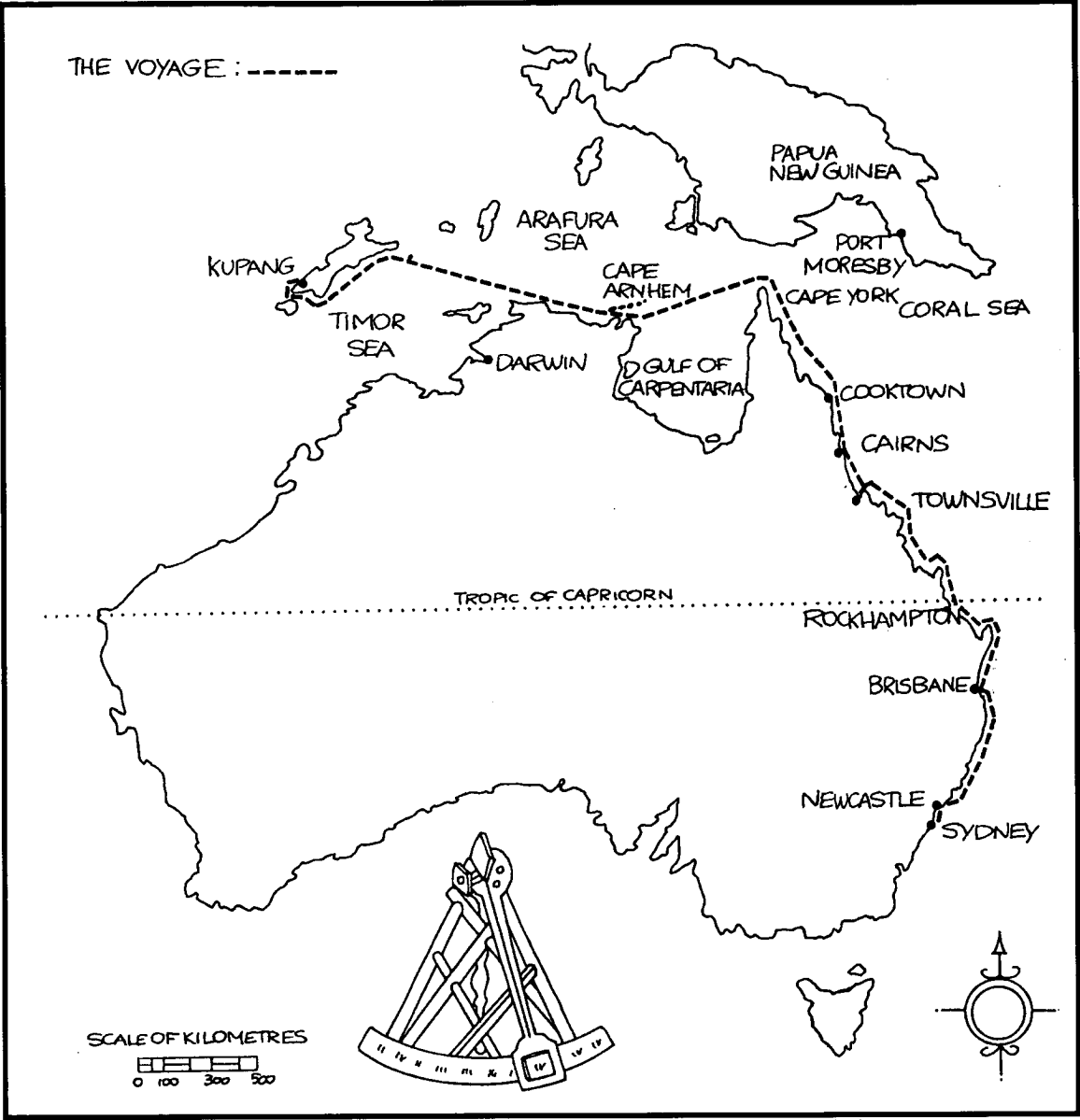


Figure 7: Escape to Timor of Bryant's party

This happened when *Charlotte* sailed in May 1788 with a crew member from each of *Sirius* and *Supply*. Phillip was convinced that Captain Gilbert, the *Charlotte*'s master, suggested to both sailors that they desert.⁹⁹ Again, Joseph Sutton, a Second Fleet (ex-*Surprize*) convict, was found hidden on *Neptune* before sailing in August 1790. He had been smuggled on board by a ship's boat. 'John Bate, a quarter-master of the ship, [admitted] preparation had been made when the people [sailors] stowed the hold for concealing convicts.'¹⁰⁰

Phillip reported to London that because of connivance of masters, mates and seaman, convicts could not be prevented from stowing away.¹⁰¹ Nevertheless, he took all possible precautions. As with *Neptune*, searches were conducted of ships before departure, while contact between ships and convicts ashore was, where possible, prevented. Frame notes that in 1789, Phillip introduced a Boat Guard, based at Garden Island, to patrol the harbour and foreshores of Sydney Cove, to detect smuggling and prevent the passing of letters between convicts and crews of anchored ships.¹⁰² These precautions were in part successful as the steward of *Lady Juliana*, who had developed a deep attachment to a female convict during the outward voyage, discovered. With his ship about to depart Sydney Cove in July 1790, he lamented 'I wished to have stolen her away, but this was impossible, the convicts were so strictly guarded by the marines'.¹⁰³

A further control measure introduced by Phillip in 1791 was that departing masters were formally given orders to deliver up any convict who may be found hidden on board their ships to the governor or commanding officer at the first British port of call. Phillip recommended that such a clause be inserted in Navy

⁹⁹ HRA, I, I, p. 206. Phillip to Nepean of August 1790.

¹⁰⁰ HRA, I, I, p. 207. M Flynn, *The Second Fleet, Britain's Grim Armada of 1790*, North Sydney, 1993, p.559. For Sutton, cross referenced as 'Suttle, Joseph (c.1759-)'. He was also one of the five men who escaped by boat, later wrecked at Port Stephens in 1790. Sutton/Suttle was the only one to die before rescue by HMS *Providence*.

¹⁰¹ HRA, I, I, p.317. Phillip to Nepean of December 1791.

¹⁰² TR Frame, *Garden Island*, p.54.

¹⁰³ J Nicol, *John Nicol, mariner Life and Adventures 1776-1801*, Melbourne, reprinted 1999, p.130. C Bateson, *The Convict Ships 1787-1868*, Glasgow, 1969, pp.120-124, for account of voyage.

Board contracts for the engagement of transport vessels. In this way the fear of a heavy penalty on return to England, may have the desired effect.¹⁰⁴ In July 1792, Evan Nepean replied, advising Phillip that 'The Steps which have been taken to restrain so pernicious a Practice in future are not dissimilar to those you have suggested'.¹⁰⁵

While the convicts were subject to directions from His Majesty's Government, the original inhabitants had no concept of being subject to George III's jurisdiction, and presented Phillip with a different set of problems. The commission issued to Phillip in April 1787 contained a fundamental flaw which resulted in armed clashes between Aborigines and whites later in the colonial era. Included in the royal assent to Phillip:-

And Wee ... give and grant unto you full power and authority to agree for such lands tenements and hereditaments *as shall be in our power* [emphasis added] to dispose of and them to grant to any person or persons¹⁰⁶

Hereditament is defined as a law 'which, as directed by will or settlement, belong absolutely to the first person entitled'.¹⁰⁷ Thus by right of discovery, and occupation, the land '*in our power*' could be granted unconditionally by Phillip regardless of any prior tribal land occupation.

While giving Phillip approval to dispose of land that 'shall be in our power', he was also ordered to 'endeavour by every possible means to open an intercourse with the natives, and to conciliate their affections, enjoining all our subjects to live in amity and kindness with them'.¹⁰⁸ Further, Phillip's contradictory Instructions stated that there was to be no unnecessary interruption in the exercise of the Aborigines several occupations.¹⁰⁹ As H Reynolds points out:-

The question of how the British gained possession of this land was, understandably, a matter which concerned many colonists ... Many were

¹⁰⁴ HRA, 1, 1, pp.317-318.

¹⁰⁵ HRA, 1, 1, p.361.

¹⁰⁶ HRA, 1, 1, p 7.

¹⁰⁷ *The Macquarie Dictionary*, ed.-in-chief A Delbridge, Dee Why, 1985, p.819.

¹⁰⁸ HRA, 1, 1, p.13. Phillip's Instructions.

¹⁰⁹ HRA, 1, 1, p.14.

like G.A. Robinson who, in 1832, admitted that he was 'at a loss to conceive by what tenure we hold this country'.¹¹⁰

This introduces the British colonial concept that the continent was an "empty land" available to be granted to individuals. Giving legal status to this perception is an 1822 London counsel's opinion, namely the 'colony was acquired neither by conquest nor cession, but by the mere occupation of a desert or uninhabited land'.¹¹¹ The term now frequently applied to this concept is "*terra nullius*".¹¹² Nevertheless, whether the land was uninhabited was a matter of doubt before the First Fleet sailed, as it was considered that the local Aborigines might oppose the landing or settlement at Botany Bay, which would then be a 'case of foreign Settlements acquired by His Majesty's arms', legally a conquest not an occupation.¹¹³ It will be recalled that in 1786 Sydney made provision for this. Apart from directing that the marines were to enforce subordination and obedience at Botany Bay, they were also responsible for 'the defence of the settlement against incursions of the natives'. Thus from a force structure viewpoint, the marines were established for either an occupation or a conquest (on a modest scale) to establish and hold the penal settlement. Their numbers and firepower could be reasonably expected to meet all foreseeable threats; for example, Banks' journal recorded that the maximum number of Aborigines seen at Botany Bay, at one time, was '22 Indians ... all armed with Lances'.¹¹⁴ Even later, when Phillip was exploring the Port Jackson/ Broken Bay region, the sighting of about two hundred armed Aborigines in two parties, was not cause for any concern.¹¹⁵

¹¹⁰ H Reynolds, *The Law of The Land*, Ringwood, reprinted 1988, p.25 and pp.7-55 for late 18 century European concepts of legality in making claims on and gaining sovereignty over previously unclaimed territory occupied by natives.

¹¹¹ HRA, 4, 1, p.414. Validity of Statute, 20 George II. 19, could be questioned. The doubt being that the King's governor had no 'legislative power ... without the controul [sic] of a local Assembly'. But such a consideration is outside the scope of this thesis.

¹¹² C Pearson, 'Shifting war on terra nullius', *Weekend Australian*, 26-27 June 2004, p.18, for continuing debate (including other references) on the origin and use of the term *terra nullius*.

¹¹³ HRA, 4, 1, p.414. Again the implications of the governor's 'legislative power as conqueror' is not pertinent to this thesis.

¹¹⁴ *The Endeavour Journal of Joseph Banks 1768-1771*, Vol.2, ed. JC Beaglehole, Sydney, second ed. 1963, pp.57-58. Collins' concern before the First Fleet sailed that the marines had insufficient strength (see above Chapter 2, p.20 and footnote 13), proved groundless.

¹¹⁵ HRA, 1, 1, p.76. Phillip to Sydney of September 1788.

Contacts between Aborigines and whites during the early days of the settlement were of a wary nature. Phillip made genuine efforts to conciliate the Aborigines, but was frequently frustrated by inflammatory acts by sailors and convicts who persisted in stealing souvenirs or otherwise causing friction. The Aborigines quickly came to appreciate the significance of the marine's red coats and power of the whites' firearms.¹¹⁶ In turn, the colonists had respect for the native spears :-

which are made of the stem of the grass tree, about twelve or fourteen feet long, pointed with fish bone or teeth, and bearded with shell, stuck on with gum, and are very dangerous weapons; they will throw them fifty or sixty yards, and strike within two or three inches¹¹⁷ (Figure 8¹¹⁸)

Interaction between the Aborigines and settlers was described in an account of the new settlement published in 1789:-

Offence is often given by the men, while the officers are most studious to preserve harmony, ... It has been uniformly remarked by our people that defenceless stragglers are generally ill-treated by the natives ... while towards parties armed and on their guard they behave in the most amicable manner.¹¹⁹

A similar opinion was expressed by George Thompson, who arrived in the colony in October 1792. He wrote that the natives 'are very treacherous and deceiving: if they chance to meet any person in the woods singly, it is ten to one but that they spear him and strip him of his clothes [and as] ... they are much frightened [by a musket]: few people travel the woods without one.'¹²⁰ While such incidents caused concern, especially to new arrivals such as Thompson, these called for preventative security measures, rather than alarm. Unfortunately, contemporary

¹¹⁶ J White, *Journal of a Voyage*, p.111.

¹¹⁷ G Thompson, *Slavery and Famine, Punishment For Sedition; or, An Account of the Miseries and Starvation at Botany Bay*. By George Thompson, Who sailed in the Royal Admiral, May, 1792. With some Preliminary Remarks. By George Dyer, B.A. Late of Emanuel College, Cambridge; Author of the *Complaints of the Poor*, London, MDCCXCIV, p.13. NLA, F199.

¹¹⁸ R and T Rienits, *The Voyages of Captain Cook*, London, 1968, Figure 8; p.55, for etching, and p.53 for drawing of spear thrower (woomera). Both are of Botany Bay Aborigines, drawn by Francis Parkinson, who sailed with Cook on his first voyage (1768-1771) as Bank's natural history draughtsman. Parkinson died at sea after HMS *Endeavour's* departure from Batavia.

¹¹⁹ *Voyage of Governor Phillip*, p.29.

¹²⁰ G Thompson, *Slavery and Famine*, pp.12-13.

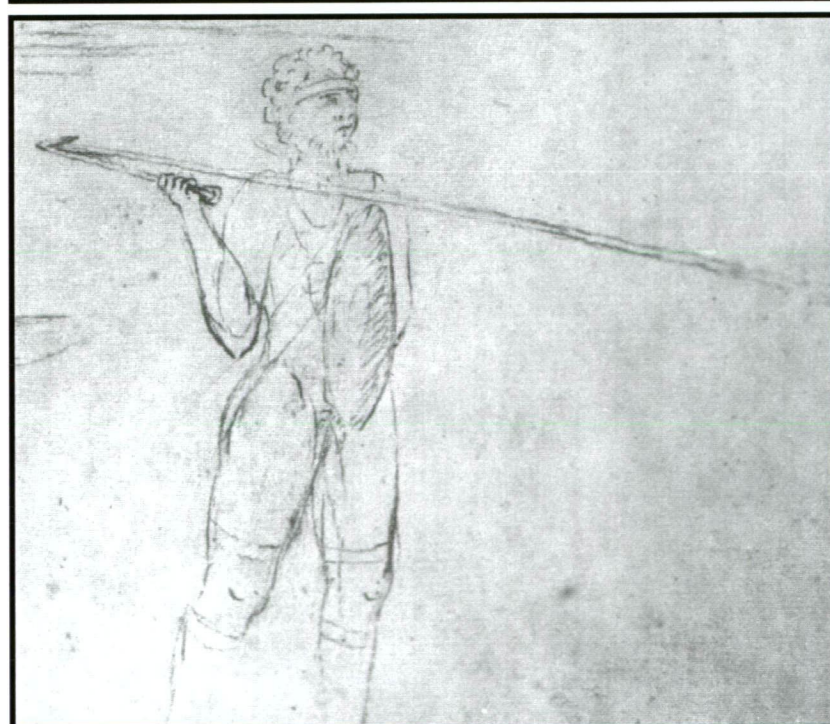
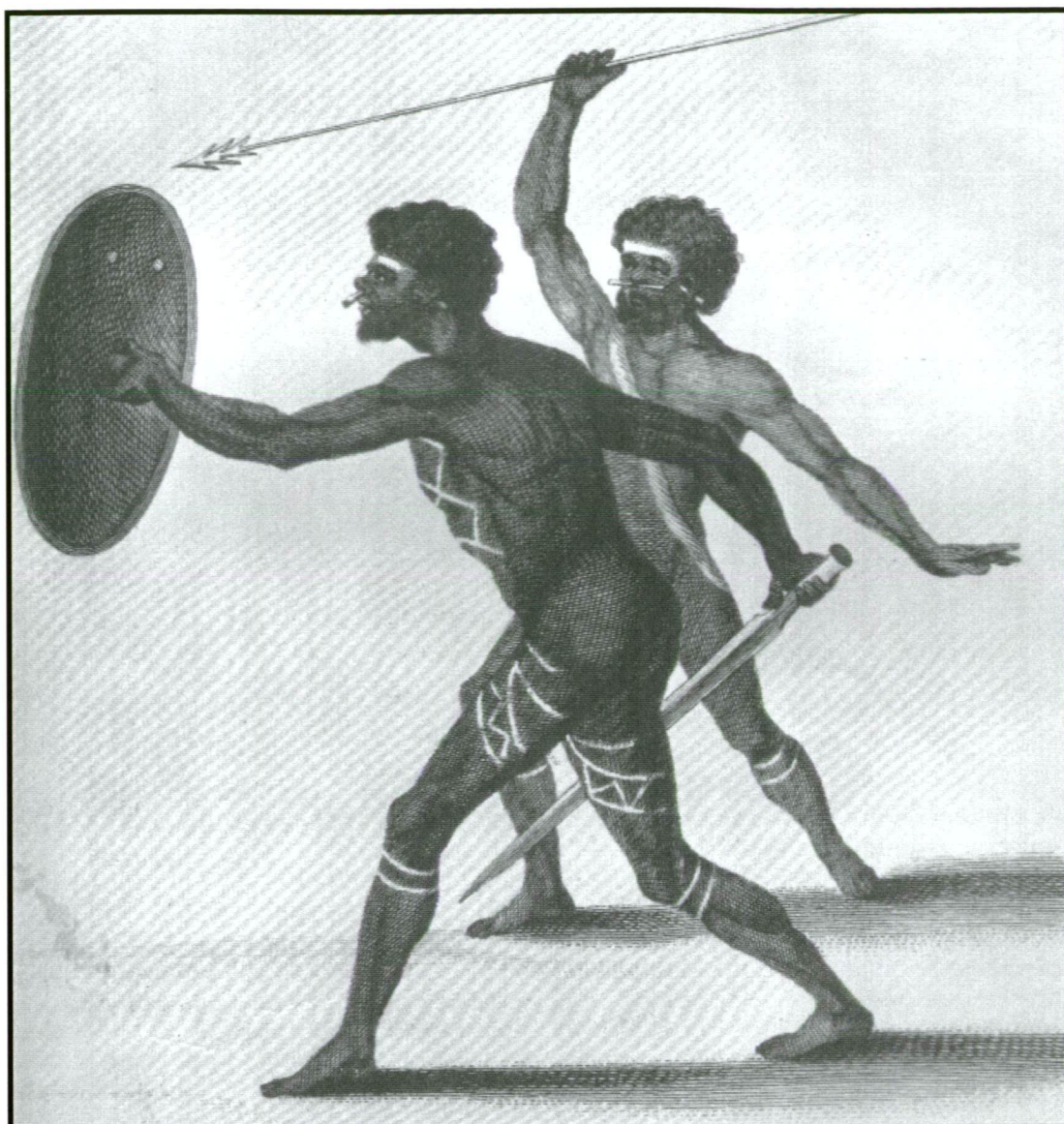


Figure 8: Aborigines with spears, spear throwers and shield.

Aboriginal opinion regarding white transgressions was unrecorded or ignored. Nevertheless, Phillip displayed sensitivity in understanding the Aborigines' viewpoint, as illustrated earlier in this chapter in relation to the two murdered and mutilated convict rush cutters, of whom he wrote there was not the 'least doubt of the convicts being the aggressors' after misusing a native canoe.¹²¹ Both sides valued their own property but were careless with that of the other. It was with relief that Phillip wrote the Aborigines 'have not attempted to annoy the settlers by setting fire to the grass, as they did when Captain Cook was on the coast; nor have they, which is more important, shown any desire to burn the crops of corn ... indispensable to the welfare of the settlement'.¹²²

As problems with the Aborigines escalated, a female convict wrote in November 1788, 'the savages still continue to do us all the injury they can, which makes the soldiers' duty very hard, and much dissatisfaction amongst the officers.'¹²³ After a period of attempted conciliation, which continued after Phillip himself was wounded by a spear in September 1790, he finally ordered stern counter measures be taken against a particular tribe, the Bideegal, living at the head of Botany Bay.¹²⁴ This was to be the first operation mounted against Aborigines in Australia's history, involving both marines and New South Wales Corps soldiers.

For the forthcoming reprisal raid, Phillip's General Order, of 13 December 1790, stated that if it were 'impracticable' to capture six men, the expedition was 'to put that number to death'.¹²⁵ Tench was ordered to command the force and was told by Phillip 'I am resolved to execute the prisoners who may be brought in, in the most public and exemplary manner, in the presence of as many of their countrymen as can be collected'. Tench claimed, that at Phillip's invitation, he suggested more

¹²¹ See above, p.46 and footnote 14, also HRA, 1, 1, p.47.

¹²² *Voyage of Governor Phillip*, pp.78-79.

¹²³ *Sydney Cove 1788*, ed. J Cobley, London, 1980, p.249.

¹²⁴ W Tench, *Narrative of the Expedition*, pp.164-166 for the wounding and later death of Phillip's convict gamekeeper John McIntire which precipitated the punitive expedition: p.167 for Phillip's orders for the raid: pp.167-176 for descriptions of two military expeditions undertaken and for quotations unless otherwise attributed. D Collins, *An Account*, pp.104-105. D Chapman, *People of First Fleet*, p.140, for McIntire's details.

¹²⁵ HRA, 1, 1, p.293. J Scott, *Remarks on a Passage*, p.59, entry for 14 December 1790.

lenient treatment of the six Aborigines to be taken prisoner. Phillip and Tench agreed it would be acceptable if only two were hanged as an example and the other four sent to Norfolk Island for a period, then released, as it would appear to the local Aborigines that 'we have dispatched them secretly.'

Because of the terrible nature of the retribution initially ordered by Phillip, Second Lieutenant William Dawes when detailed by his senior marine officer¹²⁶ to be a part of the punitive expedition, refused, citing ethical reasons. This led to him being paraded before Phillip, where he again refused the duty. Later, after counselling by Reverend Richard Johnson, Dawes wrote to Phillip stating he would now carry out his orders. Reynolds, quite correctly describes Dawes' attitude as a 'portentous clash of will, aspiration and conscience'. However, his depiction of Dawes opposing the concept of 'Empire with a vision of flourishing colonial enterprise', is certainly incorrect.¹²⁷ Applying eighteenth century standards, Phillip had a job to do and had no interest in moral qualms expressed by a junior officer. Phillip did not take any disciplinary action against Dawes, but eleven months later referred to this refusal in connection with another separate censure.¹²⁸ Meanwhile, the force organised under Tench's command, consisted of three officers, including the reluctant Dawes, two surgeons, and forty six other ranks, with rations for three days. This operation commenced on 14 December 1790 and was a failure (Figure 9¹²⁹).

Phillip then ordered a second raid. As a deception plan, the local Aborigines were told the party was marching in the opposite direction to try to apprehend the native who had speared Phillip at Manly. This expedition, consisting of thirty-nine all ranks, for security and to avoid the extreme heat of day, departed on 22

¹²⁶ Captain James Campbell commanded the Sydney Cove detachment as Ross, with two companies, was then on Norfolk Island.

¹²⁷ H Reynolds, *This Whispering In Our Hearts*, St. Leonards, 1998, p.2.

¹²⁸ HRA, 1, 1, pp.290-293. Phillip to Grenville of November 1791, with enclosures regarding Dawes. As a marine (irrespective of whether commissioned or not) Dawes could not be brought before a general court martial without approval of the Admiralty in London (see below, Chapter 4, p.84 and footnote 58). Hence Phillip's comment that Dawes' 'expression ... would have subjected him to a court-martial had he been amenable to one' (p.294).

¹²⁹ J Connor, *The Australian Frontier Wars 1788-1838*, Sydney, 2002, Figure 9 map p.32.

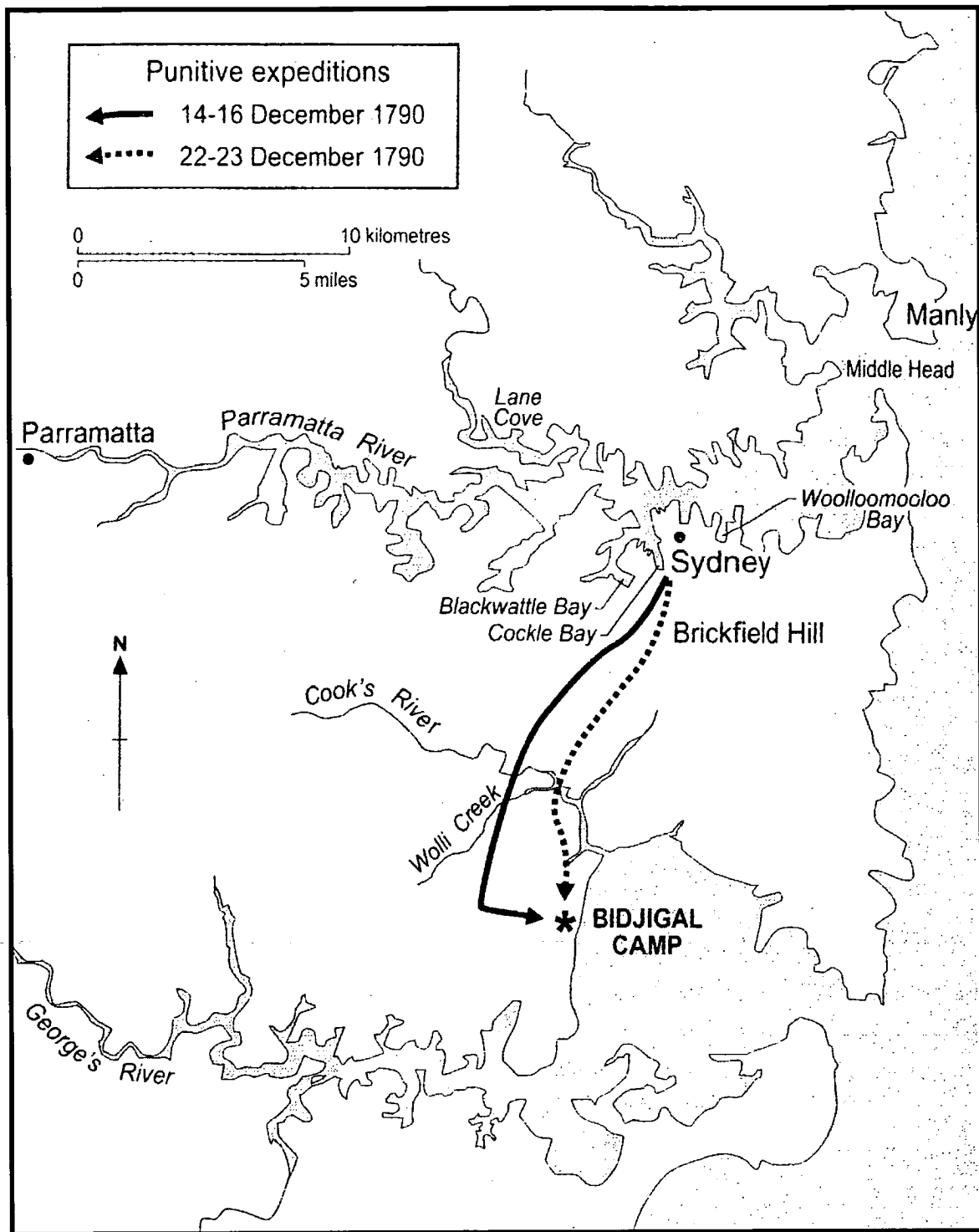


Figure 9: Two raids ordered by Phillip on an Aboriginal tribe

December 1790 at nightfall, with a full moon to aid night movement. They were away until the 25 December, and again the operation was a failure. Easty was on both excursions and described them in detail, noting that the first was 'a Troublesome Teadious March' and his description of the second raid was that it was worse.¹³⁰

In January 1791, Collins wrote of the cause of escalating tension with Aborigines:-

It was much to be regretted, that any necessity existed for adopting these sanguinary punishments; and that they had not been yet able to reconcile these people to the deprivation of those parts of the harbour occupied by the English; but while they entertained the idea of the English having dispossessed them of their residences, they must always consider them as enemies; and upon this principle would make a point of attacking them whenever opportunity and safety concurred.¹³¹

Collins' concluding words, above, described a fundamental characteristic of selection of targets in what was later to become known as guerilla warfare. A term that came into common English usage as a result of the Peninsula War¹³² and which was applied during the the Black War in Van Diemen's Land to describe Aboriginal tactics.¹³³

K Windschuttle recently rejected use of the word 'guerilla' in describing Aboriginal hostile actions, because the Aborigines did not have 'any military, political or patriotic objectives... [nor] military or other kind of organisation'. While this statement is historically ingenious, it is technically incorrect.¹³⁴ From the late 1820's to 1831, during the Black War small Aboriginal tribal bands created

¹³⁰ J Easty, *Transactions Of A Voyage*, respectively pp.120-121 and 121-123.

¹³¹ D Collins, *An Account*, p.107.

¹³² *The Macquarie Dictionary*, ed.-in-chief A Delbridge, Dee Why, revised 1985. p.779. The word 'guerilla' is the Spanish 'diminutive of guerra, WAR'.

¹³³ H Melville, *The history of Van Diemen's Land, From the Year 1824 to 1835, inclusive, During the Administration of Lieutenant-Governor George Arthur*, ed. G Mackenness, Sydney, 1965, p.33. He referred to 'the "Guerilla" war with the aborigines'

¹³⁴ K Windschuttle, *The Fabrication of Aboriginal History, Van Diemen's Land 1803-1847*, Vol.1, Paddington, 2002, p.130. Windschuttle's argument that 'For the guerilla warfare thesis to be creditable ... acts [of hostility] have to be elevated above the [philosophic motivating] level of crime or revenge (p.99), is also rejected. Terror is often used to enforce support for a guerilla group. Such a group could be an unprincipled bandit gang, or alternatively, politically motivated "freedom fighters".'

havoc in their determined efforts to oppose white settlement of their lands. As an illusive enemy, they used typical guerilla tactics in their carefully planned 'hit and run' raids against settlers and their property, who for defence relied on a combination of outposts and widely dispersed regular army, field police and mobilised special civilian patrols.¹³⁵ J Connor describes such an attack in February 1830 against an isolated farm in southern Van Diemen's Land, where a house, servants' huts and fences were destroyed without casualties to the Aborigines, who then taunted the unfortunate settlers from a safe distance.¹³⁶ Henry Melville, writing about the Black War in 1835, significantly used the word 'guerilla' in describing the form of warfare practised by the Aborigines. But this situation developed later, from the inception of the colony until Macquarie departed in 1821, occasional skirmishes between whites and mainland or Tasmanian Aborigines did not reach the same level of hostilities as in the Black War. Military offensive operations, when mounted, were usually of a limited scale against particular tribes.

Frost points out that, despite Phillip's two punitive raids in 1790, by the time he departed the colony in 1792, his humane policy towards the Aborigines ensured that 'the two races were more at ease with each other in the Sydney area.' Nevertheless, the 'situation was rather different on the fringes of European settlement beyond Parramatta ... [where the whites] were intruding on the territories of tribes'.¹³⁷ A state of armed neutrality could best describe the nature of Aboriginal-white relations outside Sydney. This wariness is seen in Major Ross' orders to the marine detachment detailed to assist in establishing a settlement at Rose Hill. Their task was defined as 'for the protection of some convicts, ... [detailed for] clearing and cultivating some ground for corn.'¹³⁸ Because of such preventative measures in the fringe areas, tensions never reached crisis proportions

¹³⁵ JF McMahon, 'The British Army and the Counter-Insurgency Campaign in Van Diemen's Land with Particular Reference to the Black Line', Hobart, unpublished MHum Thesis, University of Tasmania, 1995, pp.36-37 and 39-41. Describes the Aboriginal skills employed in their hit and run guerilla warfare. For early 1830 contemporary comments on effectiveness of the Aboriginal campaign, pp.44-45.

¹³⁶ J Connor, *Frontier Wars*, pp.84-85.

¹³⁷ A Frost, *Arthur Phillip 1738-1814 His Voyaging*, Melbourne, 1987, pp.184-196, *passim*, for Phillip's attitude and policies.

¹³⁸ *HRNSW*, 1, Pt.2, p.198.

and at no time during Phillip's administration did friction between the colonists and Aborigines create any grave internal security problems. It is also probable that the small-pox epidemic, which from about April 1789 killed almost half the Aboriginal population living around Port Jackson, contributed to their apparent quiescent attitude towards the whites. Such a death rate would have seriously weakened the fabric of their social organisation, and reduced manpower so that any possibility of a coordinated attack against the whites by a tribal group was remote.¹³⁹

As with the Aborigines, Phillip was able to prevent any serious convict troubles breaking out. This was despite an open prison system, chronic food shortages and low morale due to no contact with England for two and a half years, until the arrival of *Lady Juliana* on 3 June 1790. While Phillip kept the Aborigines in check, and maintained control over the convicts, he was never able to resolve his differences with Ross, or between that difficult man and the officers he commanded. These command tensions within the marine battalion, were known to the troops, as recorded by Sergeant Scott and Private Easty,¹⁴⁰ and were probably detrimental to the unit's efficiency. The degree to which the marines were affected in the performance of their internal security duties is debatable, but Phillip was conscious that this disruption adversely impacted on the functioning of his administration.

¹³⁹ HRA, I, I, p.145. Phillip to Sydney of February 1790, and pp.744-745, Commentary Note 118, considers 'that small-pox was [inadvertently] introduced in 1788' by First Fleet members or La Perouse's crews. There is no evidence to support the controversial suggestion that the small-pox was deliberately introduced.

¹⁴⁰ J Scott, *Remarks on a Passage*, p.37. J Easty, *Transactions Of A Voyage*, p.99.

Chapter 4

The Military and Civil Powers During Phillip's Government

As considered in Chapter 2, the first known instance of Phillip's uneasiness over military matters was recorded shortly after the First Fleet sailed from Portsmouth, when he expressed concern to London, upon learning that the marines had insufficient ball ammunition. That Ross, as the marine commander, either did not know of, or rectify, this situation before sailing was a dereliction of duty. This was not an auspicious start to the working relationship between Phillip and Ross, and in the close proximity of Sydney Cove, this relationship soured. Ross' protest over the night watch was perhaps both an effect and further cause of the deterioration of relations between the two men. Phillip was particularly aggravated by Ross' threat that marines would use their bayonets if challenged by the convict watch.¹

As well as friction between Phillip and Ross, there were other irritations internal to the military which contributed to tensions in the colony. For example, Ross was often at loggerheads with many of his subordinate officers, while the marines were particularly discontented over the savage punishments imposed on

¹ See above, Chapter 3, p.56 and footnote 74.

them compared to those administered to the convicts.² Such tensions, at all levels within the battalion, caused individuals' dissatisfaction to fester (as discussed later) into a partial breakdown of military discipline, as evidenced by organised thieving by some marines.

As early as February 1788, Surgeon Bowes observed a disturbing lack of harmony at Sydney Cove. He recorded 'I am sorry to say this government (if a government it can be call'd) is all anarchy and confusion - discontent and jealousy being evidently seen amongst the different heads of the settlement'.³ This was a veiled reference to clashes between Phillip and Ross, the only two men in the colony who held dual executive civil and military appointments. On the civil side, neither the deputy judge-advocate, nor the senior surgeon, was responsible for decisions of government. Amongst the naval officers from *Sirius* and *Supply* (under Phillip's single service command) only Captain John Hunter was of sufficient seniority to be unofficially considered a 'head' in the settlement. Hunter was in an unusual position as he held a 'dormant commission ... [from] his Majesty ... to be Governor' in the event of Phillip's 'death or absence'.⁴ As this commission was never invoked, Hunter remained second captain of *Sirius*, with no official civil status in the government of the colony. Therefore, the only 'heads', who were subjected to, or caused 'discontent and jealousy' were Phillip and Ross. It is reasonable to conclude that Ross was the instigator of this discontent as Governor Phillip, the ultimate

² HRNSW, 2, p.394. A Bowes' *Journal* of 11 February 1788. C Barnett, *Britain and Her Army 1509-1970, A Military, Political and Social Survey*, Harmondsworth, Pelican 1974, p.140. This anomalous situation between convict and military punishments, could be attributed to the brutalisation of the army (and by extension the marines) which was introduced by William of Orange (1689-1702) based on 'new continental ideas of discipline'. *The Life of A Regimental Officer During the Great War 1793-1815, from correspondence of Colonel Samuel Rice, C.B., K.H. 51st Light Regiment and from other sources*, compiled by Lieutenant Colonel AF Mockley-Ferryman, Edinburgh, 1913, p.203. 'Old and tried officers held views similar to those of the great Duke [Wellington], - by the lash alone could the discipline of the army be maintained'. McGuffie recorded accounts of military service in India where brutalisation was so bad that soldiers deliberately committed offences in order to be sentenced to transportation. Three unfortunates were shot instead of being transported: refer:- Ryder, 'Discipline and executions in India in the 1840's', *Rank And File, The Common Soldier at Peace and War 1642-1914*, TH McGuffie compiler, London, 1964, pp.102-105. Additionally, while a convict was only subject to common law, a serviceman was subject to that law as well as to military law.

³ HRNSW, 2, p.394. A Bowes' *Journal* of 22 February 1788.

⁴ HRNSW, 1, Pt.2, pp.93-94. Sydney to Phillip of 28 April 1787.

arbiter, had every incentive to foster and maintain civil and military harmony.

From several official documents prepared before the First Fleet sailed, it is beyond dispute that Phillip was Ross' superior officer in both a military and civil capacity. Phillip's commission, read before the assembled marine battalion and convicts at Sydney Cove on 7 February 1788, stated 'we do hereby strictly charge and command all our officers and soldiers ... , and all others whom it may concern, to obey you as our Governor thereof.'⁵ In Ross' commission, he was charged to 'follow such orders ... as you shall receive from us, our Governor of the said territory for the time being, or any other [from] your superior officer, according to the rules and discipline of war'.⁶ The Articles of War, which codified the 'rules and discipline of war' were a powerful tool available to Phillip in his command of the military and civil staff, and through them over the convicts. The Lords of the Admiralty directed Ross that at Botany Bay:-

the detachment shall be disembarked there you are to take the same under your command, and follow such orders and directions as you shall from time to time receive from his Majesty through one of his Principal Secretaries of State, or the Governor of the settlement for the time being.⁷

Ross' record of service, as a subordinate commander to Phillip, must be assessed in the context of this precise Admiralty directive.

Following the normal chain of military command, any orders Phillip issued to officers or marines under Ross' command, would be passed through Ross, or his adjutant. Only in exceptional circumstances should this command chain be by-passed. On the other hand, marines who were on the strength of *Sirius* or *Supply*'s detachments were not part of Ross' command. They were commanded by their own detachment officers, who in turn were responsible to their respective ship's naval captain. This system, however, was not inflexible: a subordinate from either the sea or land forces had to accept lawful orders from any superior officer of either service. Therefore, within the conventional chain of command and control, there was a degree

⁵ HRA, 1, 1, p.1.

⁶ HRNSW, 1, Pt.2, p.26.

⁷ HRNSW, 2, pp. 383-384. Directive of March 1787.

of flexibility. This was required in the new settlement at Sydney Cove, where there were unavoidable overlapping spheres of civil and military administration, where convicts, merchant and naval sailors, and marines under varied commanders, worked together. In that early period, distinctions between civil and military responsibilities would not only have been blurred, but at times appeared irrelevant. As lieutenant-governor and military commander, Ross had to operate in this confusing, and previously untried penal environment, with no clear precedent to guide him or his officers.

In this small community, officers' behaviour and personalities would have influenced the efficient working of command and control in the colony. Frost summed up personal relationships between Phillip and officers under his command in the colony:-

Phillip's character was [not] flawless. Ross complained bitterly about what he took to be Phillip's failure to inform him fully - really, to have confidence in him; and Campbell made the same criticism. The marine officers were certainly no friends of Phillip, ... the Viceroy of Brazil remarked that he [Phillip] was 'distrustful', and even Hunter made a muted comment to this effect⁸

Ross appears to have been a mentally rigid officer, as evidenced by his continuing insistence on a redoubt being built. He may have felt uncomfortable in his dual role as military commander and lieutenant-governor. As suggested by Currey, Ross 'began to see Collins's official actions as part of a conspiracy between the governor and his secretary to reduce his own authority'⁹. Apparently, to maintain his military status, he demanded that insignificant protocols of command, and minutia of service custom be followed. As discussed later, he did not apply these same high standards to himself in respect to the rights of other officers, and was inclined to be hasty and vocal in his judgments. It is not surprising that he clashed with Governor Phillip, who, in the tradition of an autocratic naval captain,

⁸ A Frost, *Arthur Phillip 1738-1814 His Voyaging*, Melbourne, 1987, p.263.

⁹ J Currey, *David Collins A Colonial Life*, Melbourne, 2000, p.61.

kept his own counsel from his civil and military subordinates, including Ross.¹⁰

Phillip's attitude left Ross feeling slighted as lieutenant-governor. When Phillip decided to split the fleet after departing from Cape Town, Ross stated 'I received my first intimation of his design from the mess of the Sirius's gun-room.' Later, in the settlement:-

The Governor's [designs] I am unacquainted with, as he has never done me the honor of informing me of his or asking me for mine; neither has he made me or any other person that I know of acquainted with any part of the intentions of Government, nor have I been let into any part of his plan¹¹.

While Phillip's "stiff" attitude does not condone Ross' behaviour as a subordinate commander, it may explain the consistency of his antagonistic manner towards Phillip.¹² In the small community at Sydney Cove, such tensions had the potential to cause a deep cleavage between the civil and military power, adversely affecting the coordination of internal security. J Currey considered 'For two years Ross had continued to discover affronts where none was intended and wilfully withheld the support of the military in the administration of the settlement'.¹³

As early as 16 May 1788, Phillip advised London that he was having problems with the marine officers. In this instance, Phillip absolved Ross and Collins from any involvement.¹⁴ Nevertheless, in a Commentary Note to *Historical Records of Australia*, referring to this dispatch, an opinion was given that 'it is probable that their [the battalion marine officers] actions were only further evidence of simmering discontent on their own part, and covert opposition on the part of

¹⁰ A Atkinson, *The Europeans in Australia A History, volume one The Beginning*, Melbourne, 1997, p.113, summed up Phillip's manner of administering the colony:- 'The Governor's own habits of authority were naval habits'.

¹¹ *HRNSW*, 1, Pt.2, p.173. Ross to Stephens of July 1788.

¹² A Atkinson, *The Europeans in Australia*, p.63, argues that Ross 'had his own reasons for resenting Phillip's silence. A major of Marines was little inferior to a post captain in the navy'. While this author has sympathy with Ross' position as explained by Atkinson, nevertheless, Ross was inferior by military rank and civil appointment, to Phillip. As such, Atkinson's statement does not recognise the principal on which military command rests. This was especially so as Ross was only a substantive captain, his rank of "major" being honorific (and unpaid), resulting from being gazetted a 'brevet-major' on 19 March 1783, in recognition of his service in the War of American Independence. J Moore, *The First Fleet Marines 1786-1792*, St Lucia, 1987, for Figure 10, p.294, for Major Ross retired as a substantive captain.

¹³ J Currey, *David Collins*, p.68.

¹⁴ *HRA*, 1, 1, p.35.

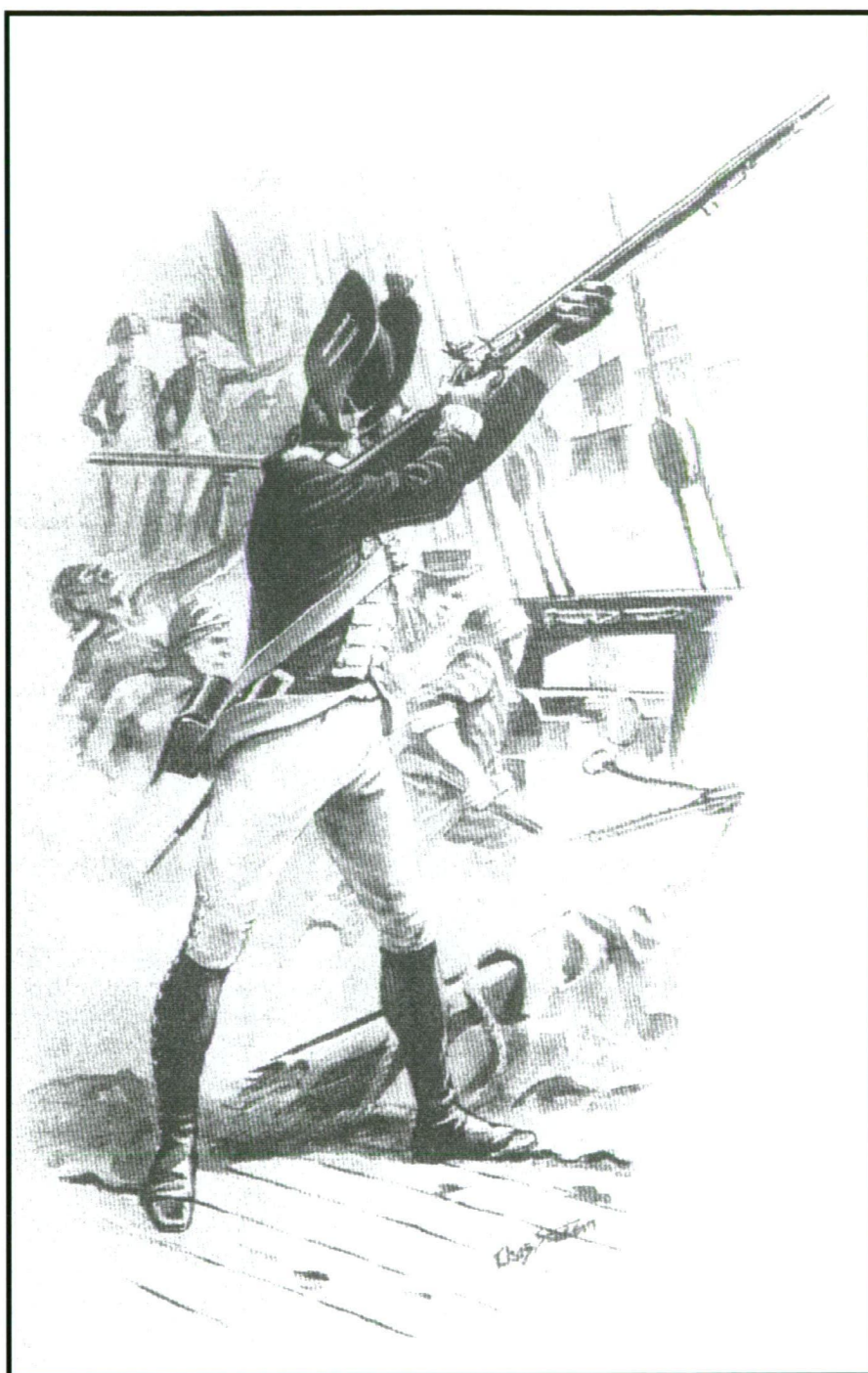


Figure 10: Marine in uniform of 1790's

Major Ross.¹⁵ Phillip, in this dispatch listed several causes for complaint.

Phillip's first complaint concerned the refusal of the officers to 'occasionally encourage' convicts to work and also oversee regulations such as those prohibiting 'straggling in the woods'. One stated reason in refusing to carry out this supervisory role was that 'the officers did not understand that any interference with convicts was expected, and that they were not sent out to do more than the duty of soldiers.' Another matter of concern to Phillip was that 'sitting as members of the Criminal Court is thought a hardship by the officers, and of which they say they were not informed before they left England.'¹⁶ Both complaints appear frivolous as the officers were not, as claimed, unexpectedly required to have dealings with convicts, nor were they overworked. This attitude adopted by the marine officers was to the detriment of their duty defined by Sydney, 'to enforce due subordination and obedience' over the convicts. Therefore, the officers could hardly support the claim that the duties required of them by Phillip, their lawful military superior, were unacceptable because these were not of a strictly military nature. With two exceptions, the battalion officers had volunteered for special duties at Botany Bay for three years, and, as marines did not usually provide peacetime garrisons overseas, were well aware they would not be employed in a conventional marine role.¹⁷

Before considering the officers' complaints of hardship in sitting as members of the Criminal Court, it is necessary to consider the court, its legality and shortcomings. The 'Act of Parliament Establishing The Colony' specifically stated that the Criminal Court 'shall consist of the Judge-Advocate ... together with six officers of his Majesty's forces by sea or land'.¹⁸ Under this act, Phillip was authorised to convene 'a Court of Judicature ... according to the laws of this realm'. This court was novel, in that military officers dispensed, in theory, the criminal law of England. In 1803, drawing on Collins' *An Account of the English Colony in New*

¹⁵ HRA, 1, 1, p.721, Commentary Note 28.

¹⁶ HRA, 1, 1, p.35.

¹⁷ J Moore, *First Fleet Marines*, p.17. For Marine Corps 'employed outside its usual line of duty'.

¹⁸ HRNSW, 1, Pt.2, pp.67-70 for act of parliament and pp.70-76 for letters patent.

South Wales which had been recently published in Britain, Jeremy Bentham argued that the judicial processes in the colony were not conducted in accordance with English law approved by parliament.¹⁹ He considered that under the governor, justice was 'Star-Chamberised; legislature and judicature confounded and lodged together, both in one and the same hand'. Phillip 'had [been granted by parliament] power to *create* the offence, but neither he nor anybody else has any power to *punish* or *try* the offender for it, when committed. The Governor by his *proclamations*, had power to *enact new laws*'. But he had no authorised power 'to punish such as shall fail of observing those proclamations' as such offences are not 'English-made laws [enacted by parliament]'.²⁰

In historical retrospect, constitutional historian ACV Melbourne commenting on Surgeon Balmain's 1802 complaint against the administration of colonial justice, considers Balmain was concerned over practical issues relevant to the free settlers, rather than Benthamite theory. Melbourne notes that Balmain referred to problems of corruption and that 'several officers were ill-bred and ignorant, while others were young and inexperienced'. Instead of being concerned over the legality of the law before the courts, Balmain claimed 'he was giving expression to a general demand for a system of jurisdiction which would afford greater security and which would resemble more closely the legal forms established in the mother country.'²¹ This being so, the few free settlers of this time, were not concerned about the legality of government proclamations and orders coming before the courts, which were issued without British parliamentary approval. Rather, they were concerned about being subjected to court martial style trials.

As later discussed, the officers' complaint that 'they were not informed [of Criminal Court duties] before they left England', seems well founded. Nevertheless, they were publicly, and formally, informed of this duty on 7 February 1788, at the

¹⁹ 'Extracts from a Plea for a Constitution by Jeremy Bentham, 1803', in *HRA*, 4, 1, p.885, Appendix B. *HRNSW*, 1, Pt.2, p.69, quotes the act.

²⁰ 'Plea for a Constitution, by Bentham', p.888. The quotation incorporates Bentham's emphasis.

²¹ ACV Melbourne, *Early Constitutional Development in Australia*, St. Lucia, 1963, p.40.

same parade at which Phillip's commission was read. This is confirmed in Collins' and Tench's journals which attest that as well as the commission, 'the act of parliament for establishing trials by law ... for holding the civil and criminal courts' and letters patent establishing the Civil and Criminal Courts were also read,²² both stated the composition of the court. Therefore, from 7 February 1788, the marine officers could not plead ignorance of their Criminal Court responsibilities.

It is understandable some marine officers would have been concerned at being required to exercise a judicial function relating to criminal law. Lieutenant Ralph Clark, considered it the worst duty he faced, and he 'would rather be on Guard for a Month than to Sitt on the tryal of these poor wretches'.²³ Nevertheless, officers were accustomed to the court martial type procedures adopted by Collins in the Criminal Court, and were practised in the application of military law. A later deputy judge-advocate was to comment on:-

the very great similarity the [Criminal] Court ... bears to a Court-Martial. ... the nature and form of its proceedings ... have made many of the Publick suppose that it was, in fact, a Court-Martial; and many of those Officers who have often sat as Members of the Court have always considered it as a Court-Martial.²⁴

Ross may be seen as deficient as a commander in not immediately putting a stop to the officers' complaints about court duty. This could indicate covert support for his officers' intransigence, a position incompatible with Ross' responsibility to Phillip, as lieutenant-governor. Alternatively, the officers were so disaffected, they used attendance at the Criminal Court as an excuse to stir up trouble, creating problems for Ross. Disregarding the question of Ross' loyalty to Phillip, in either case, doubt is cast on Ross' ability to exercise control over his officers.

²² W Tench, 1788, *Comprising A Narrative of the Expedition to Botany Bay and A Complete Account of the Settlement at Port Jackson*, Melbourne, 1996, p.46. D Collins, *An Account of the English Colony in New South Wales*, Christchurch, undated, p.14. Tench's statement is technically incorrect. The Court of Civil Jurisdiction was established by the Great Seal, by order in council, not by act of parliament.

²³ J Currey, *David Collins*, pp.62-63.

²⁴ HRA, 4, 1, p.49. Bent to London of May 1810.

While the marine officers were displaying dissatisfaction by acting in an obstructionist manner, there were also tensions amongst the other ranks. This is indicated by an extraordinary entry in Private Easty's journal for Wednesday, 19 March 1788. He wrote 'this day the Batallion [sic] of marines Turned out and Said that thay Could not work aney longer with out being Paid for itt'.²⁵ If accurately reported, this was organised mass disobedience of orders, technically a mutiny. No other reference to this has been found to confirm Easty's account, which may relate to the marines not receiving pay for 'extra works for the public service'²⁶ in 'hutting both officers and privates'.²⁷ Subsequently, Ross expressed concern over this issue and had it rectified. Alternative sources of trouble which may have caused the stop work were noted in Scott's journal of 13 March, six days before the marines' mass disobedience. He wrote of concern amongst the married men over repayments for their wives' liquor allowance and general shortage of rations.²⁸ In addition to the above grievances, it is conceivable that the marines were also indicating their resentment that on the day before the "stop work", five of their officers had been placed under arrest by Ross (discussed later).²⁹ Easty does not endorse Scott's complaints of 13 March, as he was suffering his own personal problems. On 12 March 1788, he 'reciev'd 150 Lachess' for earlier 'bringing a feameale Convict into Camp'. Possibly the effects of this punishment, prevented him making journal entries until 18 March.³⁰

In the month prior to the marines refusal to work, Bowes had recorded another cause of dissatisfaction amongst the marine other ranks. On 11 February, he compared the over-harsh disciplining of a marine (200 lashes for striking a convict woman) to a lesser punishment of a convict for a more serious offence (150 lashes

²⁵ J Easty, *Memorandum of the Transactions Of A Voyage From England To Botany Bay 1787-1793, A First Fleet Journal*, Sydney, 1965, p.100. HRA, 1, 1, p. 81, for artifices' days worked.

²⁶ HRNSW, 1, Pt.2, p.182. Ross to Phillip of August 1788.

²⁷ HRNSW, 1, Pt.2, p.172. Ross to Stephens of July 1788.

²⁸ J Scott, *Remarks on a Passage to Botany Bay 1787-1792, A First Fleet Journal*, Sydney, 1963, p.37.

²⁹ J Easty, *Transactions Of A Voyage*, p.99. Entry for 18 march 1788. J. Scott, *Remarks on a Passage*, p.37, noted the arrests a day later.

³⁰ J. Easty, *Transactions Of A Voyage*, pp.98-99.

for striking a sentry). Bowes' opinion was that 'This severity shown to the marines and lenity to the convicts ... excited great discontents amongst the corps'. He had reasonable grounds to ponder 'where it [the discontent] will end, unless some other plan is adopted, time will discover.'³¹ Bowes', Easty's and Scott's journals for February and March 1788, provide an unhappy picture of the marines' morale. The convicts, with a similar social background, and in close contact with their jailers, including the shared favours of convict women, would have been aware of, and taken advantage of this discontent, inevitably lowering internal security standards.

The arrest of five officers, a singular event considered in the following paragraphs, was publicly announced in a General Order of 22 March 1788 issued by Phillip's Headquarters.³² The order stated that at a battalion court martial, five named officers, including Captain-Lieutenant Tench as President, had passed sentence on Private Joseph Hunt, which was considered, by Ross, as tending to subvert military discipline. He therefore requested:-

that a general court-martial may be ordered to assemble for the trial of the aforesaid officers for refusing to make any alteration in the said sentence, or that it might be settled in any manner³³ most likely to restore harmony and support military discipline and good order which is so absolutely necessary to be maintained.³⁴

The order however, concluded that as there were insufficient commissioned officers in the colony to form a general court martial, the officers under arrest were to return to duty.³⁵ This reflects Phillip's judicious use of a technicality to release the officers from their arrest without being seen to diminish the authority of Ross who had requested the order for a court martial.

³¹ *HRNSW*, 2, p.394. See above, Chapter 3, p.49 and footnote 29, for the striking of 'a centry' (Drum Major Benjamin Cook).

³² *HRNSW*, 1, Pt.2, pp.163-164.

³³ *HRNSW*, 1, Pt.2, p. 162. With insufficient officers available to form a general court martial of thirteen members, Phillip suggested Ross seek 'the opinion of the officers who compose the detachment' to resolve the issue. Hence the words 'settled in any manner'.

³⁴ *HRNSW*, 1, Pt.2, p. 163.

³⁵ *HRNSW*, 1, Pt.2, pp.139-140. Phillip advised Sydney in May 1788 that he 'used every means in my power to prevent a general court-martial, the inconveniences of which were obvious ... I did not judge it prudent to put the guards [on the accused officers] in the charge of serjants, which must have been done' as no other officers were available.

The circumstances behind these unusual arrests were that a battalion court martial found Hunt guilty of having struck another marine, William Dempsey. The court offered Hunt a choice of sentence, either 'ask public pardon before the battalion of William Dempsey' or receive 100 lashes. Following procedure, the court's proceedings were passed to Ross, the convening officer, for confirmation of the court's finding and sentence.³⁶ Ross, properly, directed the court to reconsider the sentence, as it was not consistent with martial law, being incorrect to award Hunt a choice of two sentences.³⁷ Although they erred in law, the members of the court, acting within their lawful rights, replied they did not see any reason to rescind the sentence they had already given.³⁸ As a 'confirming authority can order a revision once only', legally Ross now had two options, either confirm or refuse confirmation of Hunt's sentence, with a refusal 'annul[ling] the whole proceeding'.³⁹ After the court's unsatisfactory review, Ross should have discharged that court and ordered a fresh trial for Hunt. However, Ross erred in law by referring the sentence back to the court a second time, ordering the members to 'finish the court-martial ... by passing only one sentence for one crime'.⁴⁰ In response the court refused, correctly noting that it was not 'proper or military [for the sentence] to come again under our cognizance after we have revised them'.⁴¹ Thereupon, Ross had the five officers arrested and charged with disobeying his order to alter Hunt's sentence. As a commanding officer, Ross' action was illegal, as in his role as confirming authority, he had no power to dictate a court's sentence on an offender.

³⁶ *Manual of Military Law (MML)*, London, 1914, p.52, paragraph 90. Being a 'regimental [battalion] court martial', Ross as convening authority, was also confirming authority for the finding and sentence. Note: As a body of law tends to be consistent as it slowly develops, it is considered reasonable to apply this *Manual's* 1914 principals to late eighteenth century courts martial. Contemporary writings surrounding Hunt's court martial appear to confirm this view.

³⁷ *HRNSW*, 1, Pt.2, p.159. Adjutant Long to Tench. *MML*, *passim*. Ross was correct as there is no reference to a convicted soldier being offered a choice between two sentences. Rules of Procedure (for courts martial) state 'The court shall award one sentence in respect of all offences of which an offender is found guilty (p.602 paragraph 48). As the court had 'informally expressed' Hunt's sentence, Ross, as confirming authority, had the authority to recall the court to 'vary [this] ... so that it shall be properly expressed' (p.606, paragraph 56(A) and Note 1).

³⁸ *HRNSW*, 1, Pt.2, p.141. Postscript to court martial proceedings. *MML*, p.52, paragraph 97, a court can 'adhere to their finding'.

³⁹ *MML*, pp.52-53, paragraph 97.

⁴⁰ *HRNSW*, 1, Pt.2, p.160.

⁴¹ *HRNSW*, 1, Pt.2, p.161. Court members to Ross.

In all probability, Tench and his fellow court members, knew that their sentence was invalid, even before their error was twice explained by the adjutant's letters when Ross ordered the two reviews. Their knowledge of military law, demonstrated by legally refusing Ross' second request for a review, indicates that they probably also knew the original sentence was invalid. It must therefore be considered that the court's sentence was designed to deliberately provoke Ross, who in his own words, had 'put up with such mortifying things, more particularly from Captn.-Lieut. Tench'.⁴² Ross explaining the incident to the Admiralty, noted that the sentence wrested 'out of the hands of the commanding officer a most essential and necessary power, the power of mitigating or inflicting the punishment order'd the prisoner'.⁴³ Under these circumstances, it appeared to Ross that his options were 'either giving up the consequence of the commanding officer, or putting the President and members of the court under an arrest'.⁴⁴

Thus it was at Ross' request, Phillip promulgated General Order of 22 March 1788 (referred to earlier) ordering a general court martial for the five officers. Additionally, Phillip endeavoured to resolve the impasse by a compromise within the bounds of military discipline, enabling Ross to drop charges against the officers. Phillip interviewed Tench suggesting that the alteration of a few words in the sentence would make it legally correct.⁴⁵ The five officers, feeling affronted over their arrest and release without trial, refused mediation. They issued a declaration, stating 'we once more repeat that a general court-martial only can bring the matter to a proper issue.'⁴⁶ While the five officers wanted to vindicate their own stand, and presumably expose Ross as an incompetent commanding officer, this destabilising

⁴² *HRNSW*, 1, Pt.2, p.158. Ross to Stephens of July 1788.

⁴³ *HRNSW*, 1, Pt.2, p.156. *MML*, p.53, paragraph 98. Ross was referring to the principal annunciated that:- 'The confirming authority can, when confirming the sentence, whether after revision or without it, mitigate, remit, commute, or suspend the punishment'. Having once refused confirmation of Hunt's sentence (as noted previously), Ross should not have again sought a review of punishment awarded. In such a situation, the trial should have been annulled.

⁴⁴ *HRNSW*, 1, Pt.2, p.157.

⁴⁵ *HRNSW*, 1, Pt.2, p.157.

⁴⁶ *HRNSW*, 1, Pt.2, p.164.

and demoralising event, within two months of Sydney Cove's establishment, would have impacted on unit efficiency. More conflict between Ross and his officers was soon to follow, in connection with building barracks for the marines.

In Ross' dispatch to the Admiralty of October 1788, he complained of neglect shown by his officers towards their men:-

It is with much regret that I now inform their Lordships of ... a shameful inattention of all the captains (Capt. Campbell excepted) to the erecting [of] the barracks for their companies; in place of which their attention seems to have been chiefly employ'd in the erecting houses and outhouses for themselves, their servants, and stock⁴⁷

Ross' complaint was valid, and apart from Campbell, the other three company commanders, and their subordinate officers, appear to have been remarkably dismissive of their troops' welfare, despite their living in inadequate tents.

Company commander, Captain John Shea, was the leading officer in resisting Ross' efforts to give priority to the marines' welfare. Ross questioned Shea about his marines' accommodation, receiving an insubordinate answer that was not one 'I thought I had a right to expect from him'.⁴⁸ Therefore, Ross had Shea formally brought before Phillip. Questioned by Phillip, Shea twice replied 'he did not conceive it to be any part of his duty [to be involved in building his men's barracks], but that he would do whatever he was order'd'.⁴⁹ Shea's concession to Phillip, previously denied to Ross, diffused an awkward and tense situation within the battalion. Present at this interview were Judge-Advocate Collins, Lieutenant G. Johnston, Phillip's *aide-de-camp* (later commander of the New South Wales Corps), and the battalion's adjutant, Second Lieutenant Long. The presence of these particular officers, as potentially hostile witnesses, indicates that Shea's actions were considered so prejudicial to good order and discipline that a general court martial charge was considered a possibility as a result of this interview. The General Order which Phillip then authorised, reflected no credit on either Ross as a commander, nor

⁴⁷ HRNSW, 1, Pt.2, p.195. Ross to Stephens of October 1788.

⁴⁸ HRNSW, 1, Pt.2, p.195.

⁴⁹ HRNSW, 1, Pt.2, p.196.

his officers as leaders:-

The major-commandant of the detachment having represented that he cannot make the necessary inquiry into the manner in which barracks erecting for the detachment is carried on, from some of the officers not conceiving it to be any part of their duty to direct the forwarding of that work, - and requesting that such orders may be given as may enable him to oblige them to attend that service, - the Governor is very sorry to be under the necessity of giving an order for any officer's attendance to which is undoubtedly a part of his duty, and particularly so in the present situation of the colony. The officers by every means in their power are to [hasten the building of barracks] ... and make any such report to their commandant as he may ... think necessary to demand.⁵⁰

This damning order was followed two days later by a Battalion Order by Ross which included the directive that the officers were to cooperate with 'Mr. Brewer, who is appointed to direct the [marine] carpenters and surveyors in the works to be performed'.⁵¹

This order by Ross gave rise to another clash with Tench regarding actions of two marines in the latter's company.⁵² Both were sawyers, working under Tench's orders that timber cut at the pit was not to be removed without his approval. Since then, 'the serjeant and corp's ... have frequently since repeated them [this order, amongst others].'⁵³ After 31 August 1788 Brewer was authorised by Ross to deal directly with battalion personnel, and was given approval, by Ross, to collect rafters cut at Tench's pit for use in Shea's company barracks. When Brewer requested these rafters, one of the sawyers, Private Strong, 'express'd very civilly his apprehensions of Captn. Tench's displeasure ... and requested that a written order might be procured of Captn. Tench to let them go.' After making their objection, the sawyers did not prevent Brewer having the rafters removed.⁵⁴

Brewer reported this incident to Ross, who sent his adjutant to establish with

⁵⁰ HRNSW, 1, Pt.2, p.196. Order of 29 August 1788.

⁵¹ HRNSW, 1, Pt.2, pp.196-197. Order of 31 August 1788. Midshipman William Brewer was provost marshal.

⁵² HRNSW, 1, Pt.2, p.199. Richard Knight and William Strong. Personal details: D Chapman, 1788 *The People of the First Fleet*, North Ryde, 1981, pp.134 and 186.

⁵³ HRNSW, 1, Pt.2, p.200. Proceeding of a battalion court martial.

⁵⁴ HRNSW, 1, Pt.2, pp.199-200.

Tench the accuracy of the sawyers' statement. Tench denied having given any such order.⁵⁵ To resolve the issue, Ross ordered the sawyers be court martialled, charged with 'disobedience of orders, in preventing the person authorized from bringing in materials to erect the barracks for Captn. Shea's coy.' As it was not proved that the sawyers were aware of the battalion order, they were acquitted. At the court martial, Tench admitted that he had issued the order which earlier he had denied giving, namely not to allow any timber to be removed without his authority.⁵⁶ This contradiction of his own word casts doubt on Tench's honesty in his dealings with his commanding officer.

In October 1788, further problems occurred between Ross and his officers, when Ross charged quartermaster, First Lieutenant James Furzer, with 'neglect of duty, contempt, and disrespect to his commanding officer'. Ross requested Phillip convene a general court martial to hear these charges.⁵⁷ Phillip responded by ordering the assembly of a court of thirteen officers including Collins. The latter, whose loyalty to the governor was undoubted, presented written advice to Phillip that 'in conformity to an Act of the British legislature ... for ... regulation [of marines] while on shore' that it would be illegal for a general court martial to sit without 'authority of the Commissioners for executing the office of Lord High Admiral'.⁵⁸ With the court lacking authority to sit, the matter was resolved when Furzer apologised to Ross, who then requested that Phillip withdraw the application for a general court martial. Furzer was released from arrest, returned to duty and the matter officially forgotten. But his arrest was noted in Scott's journal on 1 and 3 October 1788, that it was intended to 'try him [Furzer] on Monday 6th. Inst. by a

⁵⁵ HRNSW, I, Pl.2, p.197.

⁵⁶ HRNSW, I, Pl.2, p.200.

⁵⁷ HRNSW, I, Pl.2, p.202.

⁵⁸ HRNSW, I, Pl.2, p.206, for objection signed by the officers including Collins (205-206). J White, *Journal of a Voyage to New South Wales*, Sydney, 1962, pp.165-166, noted the battalion was 'governed and regulated by the same rules and instructions as the marine divisions at Chatham'. Note 8, to White's Chapter XXI, p.263, stated that in 1791 'Phillip received authority ... to summon general courts-martial.' While battalion courts martial were for minor offences; serious offences, by a marine officer or soldier (as drawn to Phillip's attention by Collins), had to be deferred until authority to hold a general court martial was received from England. Execution of any sentence required similar confirmation. This did not apply to a marine charged with a civil offence, who could be tried and sentenced in the colony's Criminal Court.

General Court Martial. - No court Martial. (Made Up)'.⁵⁹ This confirms that the other ranks were aware of dissension amongst their officers. An officer, evading the due process of military law would not have impressed the marines who were subjected to brutal punishments.

Seventeen days after Furzer's general court martial was aborted, Phillip wrote to Sydney of 'the very unpleasant situation of the detachment doing duty in this country, from the discontents between the Commandant and the officers ... [and] I am sorry ... it is not in my power to restore that harmony which is so very requisite in our situation.'⁶⁰ Fourteen months later, in February 1790, in a further dispatch, Phillip referred to Ross' 'warmth of temper, which has been the source of many discontents'.⁶¹ Ross in return felt estranged from Phillip, and in a private letter to Nepean at the Home Office, of November 1788, complained of 'our Governor's manner of expressing himself, for he communicates nothing to any person here but to his secretary (Capt. Collins)'.⁶²

Ross clearly resented Collins' close working relationship with Phillip. This was understandable, for in addition to Collins' duties as deputy judge-advocate, in June 1788 Phillip appointed him his secretary. In 1789 Collins took up permanent residence in the newly completed Government House.⁶³ Three incidents, involving friction between Ross and Collins, illustrate the strained relationship which had developed between the two men. In one case, the 'Lieut.-Governor and Capt. Campbell in the presence of convicts and others' abused Collins and Hunter, sitting as Justices of the Peace. As a result, Collins 'wished to resign his office of Judge-Advocate' and Hunter 'wished to be excused attending one day in the week as a Justice of the Peace'.⁶⁴

⁵⁹ J Scott, *Remarks on a Passage*, p.41.

⁶⁰ HRNSW, 1, Pt.2, pp.202-203. Dispatch of October 1788.

⁶¹ HRA, 1, 1, p.149. To Nepean.

⁶² HRNSW, 1, Pt.2, p.212.

⁶³ J Currey, *David Collins*, p.61.

⁶⁴ HRA, 1, 1, p. 150.

On another occasion, before Phillip departed on a journey to Rose Hill, he instructed Collins that a particular convict be relocated from one work gang to another. Phillip in giving this instruction assumed the convict, a plasterer, had finished tasks required by Ross. Collins issued the instruction, unaware the man was still working on a marine officer's hut. Additionally, this task was being performed on the western side of Sydney Cove, an area over which Phillip had given Ross supervisory responsibility for convict work parties. Ross, quite properly, sent Provost Marshall Brewer to query by what authority the man had been moved. Collins, realising the situation was delicate, immediately directed that the plasterer continue until any tasks required by Ross were completed. But despite Collins' quick correction of this unintentional slight, Ross considered this 'an insult offered to me in my character of Lieutenant-Governor'.⁶⁵

In his letter of complaint to Phillip, Ross admitted Brewer informed him Collins 'knew nothing more of it [the order he passed] than when the Governor was going away he left such orders with him.'⁶⁶ Thus in complaining about the impropriety of the order by Collins,⁶⁷ Ross was using this as an excuse to assail Phillip. Ross correctly stated in his complaint that in the absence of Phillip he was responsible for decision making in the settlement. Therefore he argued, Collins should have consulted him, as lieutenant-governor, before changing a convict's employment. Collins, an experienced officer, appreciated Ross' authority in Phillips's absence, but probably considered that Phillip's instruction to relocate a convict from one gang to another was so routine and trivial that it did not warrant referral to Ross for confirmation. This issue, over a minor oversight, generated considerable heat and increased tension between officers who respectively represented the colony's civil and military powers.

A serious challenge to Phillip's authority was made by Ross, following the death of Captain Shea in February 1789. Ross, without reference to Phillip, offered

⁶⁵ HRA, 1, 1, pp.151-155: for correspondence generated by this incident.

⁶⁶ HRA, 1, 1, p.152.

⁶⁷ HRA, 1, 1, p.152.

the command of Shea's company to Collins. This flouted military protocol, as Ross had no authority to unilaterally remove an officer appointed to the staff of his superior. He also ignored the fact that Collins held a civil as well as a military appointment by virtue of a royal commission, with any reappointment theoretically requiring the sanction of an Order in Council.⁶⁸ In a crisis, only Phillip, acting as the king's representative in New South Wales, could have vindicated such a reappointment. To justify this aberrant offer, Ross informed Collins that he was directed so to do by Lord Howe.⁶⁹ As Phillip pointed out to Sydney:-

the civic Government of this colony may be very materially affected by directions of such a nature being given to the commandant of the detachment, and by him carried into execution without the knowledge or consent of the Governor, and which I presume never was intended by Lord Howe. The first information I received of any such offer ... was from the Judge-Advocate's saying that he would not accept the offer.⁷⁰

Ross' action as a senior officer is difficult to understand. Was he attempting to destroy the close working relationship between Phillip and Collins, which Ross may have blamed for curtailing his own role as lieutenant-governor? Alternatively, was he so lacking in staff experience that he did not know he was at fault, or that he just did not think or care about the consequences of his actions? As Ross was an experienced officer, such possibilities seem unlikely. Yet, somehow he did make this inexplicable blunder, raising the question whether other command failures on Ross' part contributed to dissatisfaction within the battalion at a risk to efficiency and internal security. There was also a serious lack of supervision of the soldiers in barracks.

Inexcusable inefficiency in enforcing barrack regulations led to the battalion's most traumatic experience during its tour of duty in the colony. A gang of marines, craving spirits and other items, began organised stealing on a large scale. Stolen goods in short supply also had a barter value, especially in seeking sexual favours. In Collins' opinion, the root cause was the association of the gang with 'some of the worst of the female convicts; at whose huts, notwithstanding the internal regulations

⁶⁸ *HRNSW*, 1, Pt.2, pp.26-27, for Collins' commission.

⁶⁹ *HRNSW*, 1, Pt.2, p.228.

⁷⁰ *HRNSW*, 1, Pt.2, p.229.

of their quarters, they found means to enjoy the ill-acquired plunder.⁷¹

This gang was formed and led by Joseph Hunt, whose court martial had earlier led to the arrest of the five officers. The gang obtained and altered keys to fit the different locks on the three doors of the provision stores.⁷² When a gang member was on night sentry, he would admit the others, locking them in. In this way, periodic inspections by duty officers or non-commissioned officers, found the sentry alert and the storehouse apparently secure. This scheme worked well for about eight months until one of the gang on sentry duty decided to break in alone.⁷³ Hearing the duty corporal approaching, he panicked and accidentally snapped off the key in the lock. Discovered next morning, the broken key was identified by the convict blacksmith 'through whose hands most of the work passed', as one modified for Hunt. When questioned, Hunt turned King's Evidence implicating six other marines. The men were tried under civil law by the Criminal Court, formed exclusively by marine officers.⁷⁴ This sat on 25 and 26 March 1789, and the six named by Hunt were found guilty by the court and sentenced to death. Easty noted that 'the Galleows was Erected before the Sentance was Cast upon them'.⁷⁵

Scott's journal for 27 March reads 'At. 9 OClock in the Morning the Sentince past. on the Above Prisoners⁷⁶ Was put In Exacution; In Consaquence of Jos. Hunt. Convicting the. Six Afforesaid prisoners, he Was pardone,d -.'⁷⁷ Easty noted that before the executions took place 'between the 2 Store housees when thay all Said that Joseph Hunt was the ocaation of all thier Deaths as he was the first that

⁷¹ D Collins, *An Account*, p.49.

⁷² D Collins, *An Account*, p.48.

⁷³ D Collins, *An Account*, p.49.

⁷⁴ D Collins, *An Account*, p.48. *Sydney Cove 1789-1790*, ed. J Cobley, London, 1980, p.23. Captain Collins (President), Captains Campbell and Meredith, Captain-Lieutenant Tench, Lieutenants Johnston, Creswell (elsewhere 'Cresswell') and Furzer.

⁷⁵ J Easty, *Transactions Of A Voyage*, p.111. *HRNSW, 1, Pt.2*, p.297. Phillip to Sydney of February 1790. W Tench, *Narrative of the Expedition*, p.102 for the 'awful and terrible example of justice'. He failed to mention he was a member of the court.

⁷⁶ J Scott, *Remarks on a Passage*, p.46. 'Luke Hanes [Haines], Richd. Dukes, Richd. Askew, Jams. Brown, Jams. Baker, & Thos. Jones'.

⁷⁷ J Scott, *Remarks on a Passage*, p.46.

began the Said Roberry ... there was hardly a marine Present but what Shed tears offacers and men'.⁷⁸ Tench, whose published account was obviously written to achieve maximum dramatic impact, wrote 'Six marines, the flower of our battalion, were hanged by the public executioner'.⁷⁹ Collins was less generous in his comments about the six, noting that while some were held in high estimation by their officers, four of the six were responsible for the earlier manslaughter of 'their comrade Bulmore [Bullmore]' in November 1788. Additionally, the stolen liquor 'was productive of many disorders, for which ... they were more than once punished'.⁸⁰ Further, in the month before the executions, Hunt had received 700 lashes.⁸¹

The impact of the six executions was soon evident and caused considerable repercussions. Understandably, this particularly applied to Captain Campbell, from whose company came Hunt, the six executed men, also Bullmore.⁸² A bitter dispute developed between Campbell and Collins whether a convict, Mary Turner, should be brought to trial as an accessory of the executed marines. Campbell objected to Collins' decision that no further action be taken, and vitriolic correspondence resulted.⁸³ Arising from this, Campbell formally requested Ross to remove his (Campbell's) name from the roster of officers scheduled for duty in the Criminal Court. Campbell stated he always understood Ross did not have power to command officers to sit on this court against their own inclinations. But previously he had 'volunteered or acquiesced' in doing this duty and was prepared to sit in future only on that basis. Finally, Campbell accused Collins of writing a most insulting letter, and requested Ross raise with Phillip the question of officers being required to sit on

⁷⁸ J. Easty, *Transactions Of A Voyage*, p.111.

⁷⁹ W. Tench, *Narrative of the Expedition*, p.102.

⁸⁰ See above, Chapter 2, pp.41-42, for manslaughter of Bullmore; involving Haines, Baker, Askew and Dukes. D Collins, *An Account*, p.49.

⁸¹ D Collins, *An Account*, p.48.

⁸² J Moore, *First Fleet Marines*, p.304. Appendix C (pp.303-307) lists postings of all ranks as at July 1788.

⁸³ *HRNSW*, 1, Pt.2, pp.240-243. Campbell demanded that Turner, as an unsatisfactory witness, be tried for perjury and as an accessory.

the Criminal Court.⁸⁴

Ross submitted Campbell's case to Phillip who could not allow this issue to go unresolved as it was essential for convict discipline and the maintenance of internal security that the Criminal Court function without disruption. On the day after Campbell wrote to Ross, 28 April 1789, Phillip ordered three lieutenants to constitute an official inquiry to examine the legality of Campbell's claim. Later that day, the lieutenants, apparently unwilling to be seen supporting either Phillip or Ross, advised Phillip of their 'incompetency to decide on an affair of such a [legal] nature.'⁸⁵

For the next eight days, historical records are silent on this topic. Nevertheless, a great deal must have taken place, as Phillip became aware that 'Major Ross ... is of the opinion they [the officers] do not think it a part of their duty.'⁸⁶ As discussed earlier, after the act of parliament and letters patent were publicly read on 7 February 1788, no officer could plead ignorance to the lawful requirement that he sit as a member of the Criminal Court.⁸⁷ Phillip could not afford to allow Ross' publicly stated opinion to go unchallenged, and acted immediately.

On 6 May 1789, Ross was ordered to put the following question to his officers (Campbell being exempted as he had already stated his opinion), 'whether or not they think it their duty to sit as members of the criminal court established in this country.' Typical of all replies was that of Tench, the senior officer questioned. Ross recorded his reply:-

I had no knowledge of the Act of Parliament [establishing the courts in New South Wales] previous to my arrival in this country; from the moment I read it I look'd on it as Captain Tench's duty to sit on criminal courts whenever ordered, and still look on it as such.⁸⁸

The other eleven officers questioned agreed with Tench that they were duty bound to

⁸⁴ HRNSW, 1, Pt.2, pp.242-243. Letter of 27 April 1789.

⁸⁵ HRNSW, 1, Pt.2, pp.243-244. Report 28 April 1789.

⁸⁶ HRNSW, 1, Pt.2, p.244. Ross to Phillip of 6th May 1789.

⁸⁷ The May 1788 claim of 'hardship' serving on the Criminal Court.

⁸⁸ HRNSW, 1, Pt.2, pp.244-245.

sit on the court. This exploded Ross' assertion that his officers supported Campbell's opinion. Despite this overwhelming acceptance of the parliamentary act establishing the criminal court, three weeks later disagreement was again recorded.

Because of a report that Ross improperly endeavoured to influence the officers at the meeting of 6 May, on 28 May 1789, Phillip ordered Collins to put the following questions to officers who had attended the earlier meeting:-

Question 1:- Was there such a meeting, and what reason was assigned by the major-commandant of the detachment for assembling the officers?

Question 2:- Did the major-commandant at that meeting say that the Governor's conduct in calling on Capt. Campbell to sit in his turn as a member of the criminal court was oppressive?

Question 3:- Did he [Ross] ask the officers to join Capt. Campbell in refusing to sit as a member of that court, or what was said on that subject?

The replies were recorded by Collins, with Lieutenant Poulden answering that Ross had called the meeting 'to lay before it the letters from the Judge-Advocate and Capt. Campbell.' Other officers gave more detailed replies further extending this theme. In reply to the second question, all officers said the word 'oppressive' was used by Ross. Their answers varied on whether he had claimed this was an opinion he gave to Phillip, or alternatively, that Ross was making the point to the marine officers that he considered the duty oppressive, or Phillip in his handling of Campbell, was oppressive. Except for Poulden who gave a negative reply, other officers answered the third question by stating that Ross did not directly ask them to support Campbell, but that this was implicit in the tenor of his remarks to the meeting.⁸⁹

It is a sad reflection on the command relationship between Phillip and Ross that Phillip found it necessary to reduce Ross' statements to written evidence which could be forwarded to London if necessary. After this evidence had been taken, Ross apparently realised he had overstepped the bounds of military discretion and acted with reticence. In Phillip's dispatch to London, it was noted that:-

when the officers informed him [Ross] they had been examined respecting that meeting, and which they did as soon as they left the Judge-Advocate;

⁸⁹ HRNSW, 1, Pt.2, pp.245-247.

and being asked what questions had been put to them, they desired to refer him to the Governor for the questions and their answers; but Major Ross has never mentioned that business to me, and I have thought it best to let it rest in its present state.⁹⁰

For an officer jealous of the prerogatives of his command, Ross' failure to demand an explanation from Phillip was significant. Phillip's initiatives had finally resolved the impasse over marine officer court appearances. The sequel to this episode was that Admiralty Secretary Stephens, in a letter to Ross, advised the marines were to be withdrawn from the colony, and:-

Their Lordships are much concerned that any disagreement should have arisen between the Governor and yourself; and they are not less so to find that any of the private marines should have behaved in such a manner as to make it necessary to punish so many of them [the six marines hanged] in the exemplary manner you mention.⁹¹

This was a strongly worded criticism of Ross' performance as a battalion commander, but this reprimand arrived too late to deter Ross from another serious altercation with Phillip.

Following the May 1789 questioning of the officers, a confrontation between Ross and Phillip occurred over the convict night watch.⁹² This incident took place in late 1789 or early 1790, as Phillip reported the matter to London in a dispatch of 1 February 1790. Also, Ross again raised the issue of Collins insulting Campbell regarding a prosecution of Mary Turner. Phillip wrote to Nepean that 'the Lieutenant-Governor has thought I did not pay proper attention to his complaints of the Judge-Advocate's conduct'.⁹³ Phillip was clearly exasperated with Ross, and it may or may not be coincidence that on 2 March 1790, with critical food shortages at Sydney Cove, Ross was chosen to command two companies of marines and extra convicts dispatched to the more fertile Norfolk Island.⁹⁴ While continuing in his role

⁹⁰ HRNSW, 1, Pt.2, p.239. Phillip to Sydney of June 1789.

⁹¹ HRNSW, 2, p.445. Letter of March 1791.

⁹² See above, Chapter 3, pp.55-56.

⁹³ HRNSW, 1, Pt.2, p.301 Phillip to Nepean of February 1790; pp.301-304 for problems caused by Ross.

⁹⁴ J Easty, *Transactions Of a Voyage*, p.114. For names of officers, but only the ranks of the fifty-six marines embarked.

of lieutenant-governor, Ross was to 'command and [take] charge of the settlement established at Norfolk Island'.⁹⁵ Later, Home Secretary, Lord Grenville, who succeeded Sydney, wrote to Phillip that 'sending Major Ross to Norfolk Island ... appears to have been a judicious measure'.⁹⁶ For Ross, it was an opportunity to demonstrate that away from Phillip's supervision and frustrating lack of communication, he could be a sound commander and civic administrator. Accompanied by *Supply*, he sailed for Norfolk Island aboard *Sirius* under Captain Hunter's command.

Ross' first test came on his arrival at Norfolk Island when *Sirius* was disabled and later broke up while trying to land stores. 'The instant the ship struck, Lieutenant-Governor Ross ordered the drums to assemble all the marines and convicts'.⁹⁷ He immediately issued an order that anyone who killed any stock, or who plundered stores from the stranded ship, would be hanged. Hunter noted that 'the shore was lined with the marines, to prevent the convicts from committing depredations, it was much, but not wholly prevented'.⁹⁸ Next morning Ross issued a summons to all naval and marine officers, including Hunter and the outgoing commandant, King, to attend a council at noon on 20 March 1790.⁹⁹ The purpose of this council was to give 'advice and assistance [to Ross] ... for establishing such rules and regulations as may be necessary for the good government of the settlement'.¹⁰⁰ As a result of this meeting martial law was declared, the naval chain of command ashore for *Sirius*' crew was agreed, as was the rationing and control of the limited stores which were placed under joint naval and marine supervision.¹⁰¹ Two days later, on Monday, 22 March, an unusual ceremony was held to formalise

⁹⁵ HRNSW, 1, Pt.2, pp.314-316. Phillip's instructions to Ross of March 1790. King after handing-over, was to return to Sydney Cove, then travel to England to brief the London authorities.

⁹⁶ HRA, 1, 1, p.218. Dispatch of February 1791.

⁹⁷ J Hunter, *An Historical Journal Of Events At Sydney And At Sea 1787-1792*, Sydney, 1968, p.256. Hunter's book also included accounts by Phillip, King and Lieutenant H L Ball, captain of *Supply*. This quotation is from King.

⁹⁸ J Hunter, *An Historical Journal*, p.122.

⁹⁹ HRNSW, 1, Pt.2, pp.319-321. Ross to Phillip of March 1790.

¹⁰⁰ HRNSW, 1, Pt.2, p.321. Proclamation of 20 March 1790.

¹⁰¹ HRNSW, 1, Pt.2, p.322.

martial law. All persons on the island were assembled and the resolutions of the officers' council were read. As a symbolic act of acceptance of martial law, the whole population led by Hunter and Ross, passed under the King's colours at the flagstaff, and between the colours of the marine detachment.¹⁰² This was a sound move as the ceremony underlined to both the marines and convicts that no threat would be brooked to the island's internal security. As noted by Lieutenant Fowell of *Sirius*, if martial law had not been proclaimed, the greatest punishment that could have been awarded on the island was a flogging, but now seven officers could constitute a general court martial with five having to concur in a death sentence.¹⁰³ Although justified by expediency, this is a clear case which supports Bentham's description of colonial law as 'Star-Chamberised; legislature and judicature confounded and lodged together, both in one and the same hand'.¹⁰⁴

Because of the cooperative nature of Ross' approach as commandant, he successfully maintained stable government on Norfolk Island, and was not reluctant to seek advice from the officers' council where necessary. For example, in May 1790, the council met to consider the exhausted state of provisions in the settlement, and decide what measures should be taken. A reduced ration scale was agreed upon and proclaimed. This document concluded 'In future all crimes which may be considered by any three members of the Council as not capital will be punished by a reduction of the present allowance, at their discretion'.¹⁰⁵ Evidently Ross and the naval and marine officers saw the council as a functioning element in the administration of the island. The spirit of cooperation under Ross' leadership is exemplified in a letter by a senior rating of *Sirius*' crew. He wrote that 'We have great right to remember with gratitude the kindness of our good Friend Major Ross ... who spared no pains to make us comfortable in our situation, and was ever ready to serve us.'¹⁰⁶ This was a vastly different impression to that which Ross created at

¹⁰² HRNSW, 1, Pt.2, p.320. J Hunter, *An Historical Journal*, p.257 (King's account).

¹⁰³ HRNSW, 1, Pt.2, p.381. Letter to his father of July 1790.

¹⁰⁴ 'Plea for a Constitution, by Bentham', p.888.

¹⁰⁵ HRNSW, 1, Pt.2, p.335. Undated Proclamation of May 1790.

¹⁰⁶ HRNSW, 1, Pt.2, p.399. Undated letter, possibly written in August 1790. Found amongst Banks' papers.

Sydney Cove.

Phillip raised no objection, with London, or with Ross, about the form of government set up at Norfolk Island under martial law. By July 1790, Phillip was considering practical implications of Ross' relief by an incoming captain company commander of the New South Wales Corps. In planning this handover, Phillip saw 'a strong objection [to martial law continuing], as the small military force to be employed there may throw the administration of justice into the hands of a few very young men.' He looked forward to the return of King and commented to London 'I should gladly increase the civil power if I had the means, but which this colony does not afford me.'¹⁰⁷ This illustrates the conflict between the desirability of the civil power's supremacy, against the need for the military to maintain an iron grip in the interests of preserving internal security.

Meantime, Ross had more basic worries, to supplement the dwindling food supply by catching 'the birds at Mount Pitt' and fishing. By August 1790, provisions on Norfolk Island was down to twelve weeks supply at a subsistence level, with salted meats not being issued until the birds and fishes 'fail us'.¹⁰⁸ Severe disciplinary measures were also proclaimed to meet the desperate situation.¹⁰⁹ However, on 9 August 1790, supplies were received and martial law was rescinded. Of critical importance over this trying period, was that Ross maintained internal security under wretched conditions, for which he deserved (but apparently did not receive) credit.

During the period of martial law, from March to August 1790, there was no breakdown of government nor were draconian punishments actually inflicted as cautionary proclamations proved effective. Hunter wrote that by one proclamation 'much mischief I am of opinion was prevented ... [and] fear of an immediate trial,

¹⁰⁷ *HRNSW*, 1, Pt.2, p.357. Phillip to Grenville of July 1790. *HRNSW*, 3, p.5, and third footnote concerning a court of jurisdiction not being established until 1796, p.74.

¹⁰⁸ *HRNSW*, 1, Pt.2, p.364. Proclamation of 19 July 1790.

¹⁰⁹ *HRNSW*, 1, Pt.2, pp.390-391 and 391-393, for proclamations.

and ... immediate execution, kept every body tolerably honest'.¹¹⁰ During this period, only one general court martial was held, which resulted in convicts being flogged. Nevertheless, in February 1791, Ross reported to Phillip that 'unless some criminal court or martial law is [again] established, it will scarcely be possible to prevent constant robberies, as well as other capital offences'. His concern was the number of absconders who raided gardens by night - a recurring problem with scarcity of food.¹¹¹

In the constricted island community, Ross did have problems with his fellow officers and later soldiers of the New South Wales Corps. Lieutenants Faddy and Kellow fought a duel over allegations one of them was lying. Later Kellow was shunned for fifteen months by his fellow officers.¹¹² In the last few months before Hunter and his crew departed from the island in February 1791, relations between Ross and Hunter had become frigid. He also had several clashes with Captain William Hill of the New South Wales Corps.¹¹³ Later, on the day before Ross and the marines embarked for England, Ross and Hill fought a duel near Sydney Town.¹¹⁴

At Norfolk Island, Ross had to surmount a serious incident amongst the marines, who objected to supplementing their rations by buying vegetables from industrious convicts. On 9 April 1791, they refused to draw their rations, but determined action by Ross, in parading the marines, unarmed, resolved the matter. The men, faced with dire consequences under the Articles of War, if they disobeyed Ross' lawful command, thereupon drew their supplies as ordered.¹¹⁵ On a subsequent occasion, Ross wrote to Phillip expressing concern over the marines' complaint that their spirits ration was less than that issued to marines at Sydney

¹¹⁰ J Hunter, *An Historical Journal*, p.123.

¹¹¹ *HRNSW*, 1, Pt.2, pp.438- 439. Ross to Phillip of February 1791.

¹¹² J Moore, *First Fleet Marines*, pp.241-242. Kellow later apologised and the matter was dropped.

¹¹³ J Moore, *First Fleet Marines*, pp.253-254, for Hill.

¹¹⁴ *Some Letters of Rev. Richard Johnson, B.A. First Chaplain of New South Wales*, Sydney, 1954, Letter of December 1791, pp. 43-44.

¹¹⁵ J Moore, *First Fleet Marines*, pp.239-240.

Cove. This 'has occasioned more discontent and murmuring amongst them than ever were observed in their greatest apprehensions of famine.'¹¹⁶

Meanwhile, in England, King was commissioned 'to be Lieutenant-Governor of Norfolk Island in the Pacific Ocean'.¹¹⁷ He was subordinated to 'our Governor of our territory of New South Wales and islands adjacent'. Therefore, on his return, he had equal status with the lieutenant-governor of New South Wales.

King returned to Norfolk Island on 4 November 1791. He reported to Phillip that 'On my landing here a general murmuring and discontent at Major Ross's conduct assailed me from every description of people'.¹¹⁸ This snide comment was prompted by an agricultural programme drawn up by Ross, intended to make the island self sufficient by imposing developmental targets on settlers. King probably over estimated the degree of opposition to this measure.¹¹⁹ At least he had the good grace to inform Nepean that on his arrival the public and private crops were most promising.¹²⁰ But while Ross was disparaged by King, some of the island's detachment of marines and soldiers were scathing in their comments on the newly promoted Commander King.¹²¹ In September 1792, Private Easty wrote that King 'behaves more like a madman then a man in trused with the Govrment of an Iland ... Belonging to Great Britain'.¹²²

On 5 December 1791, Ross and the two companies of marines from Norfolk Island, arrived back in Sydney Cove. The battalion, apart from a company held back by Phillip until the strength of the New South Wales Corps was built up, embarked

¹¹⁶ HRNSW, 1, Pt.2, p.436. Ross to Phillip. For Phillip's explanation to Grenville, pp.466-467.

¹¹⁷ HRNSW, 1, Pt.2, pp.287-288. Commission of January 1790.

¹¹⁸ HRNSW, 1, Pt.2, p.562. King to Nepean of November 1791. King abolished this scheme.

¹¹⁹ A Atkinson, *Europeans in Australia*, p.78. Less than half the settlers signed a petition on which King based his decision.

¹²⁰ HRNSW, 1, Pt.2, p.562.

¹²¹ HRNSW, 1, Pt.2, footnote p.474. Promoted March 1791.

¹²² J Easty, *Transactions Of A Voyage*, p.139.

for England on 13 December in HMS *Gorgon*.¹²³ In addition to the company remaining temporarily in the colony, other marines had taken their discharge to become settlers, mainly on Norfolk Island, or had requested transfer to the New South Wales Corps.

In retrospect, Major Robert Ross is one of the more interesting military characters in Australia's early history. It is hard to equate the commander who repeatedly gave Phillip cause for concern, with the man who displayed fine leadership and a spirit of cooperation on Norfolk Island. In the personality clash between Ross and Phillip, some blame must be attributed to the latter for his aloof manner which helped fuel their mutual antagonism. An independent report offers justification for Ross' animosity towards Phillip. Naval lieutenant, Daniel Southwell, quotes another naval officer's description of Phillip as 'the pompous despot', and personally comments 'Our austere Govr's behaviour alters not for the better, and, [I] can assure you, am not disposed to speak in his praise.'¹²⁴ Surgeon Bowes was another who at times spoke disapprovingly of Phillip. He wrote of Phillip's 'Rashness' when ordering the fleet to sail from Botany Bay, and coldness to the merchant ships' captains who attended his commissioning ceremony at Sydney Cove.¹²⁵ It is understandable that Ross performed better on Norfolk Island away from Phillip's austere and critical supervision. But, a partial defence of Ross in his dealings with Phillip does not justify his intemperate manner and actions which led to lapses in internal security. In the final analysis, his superiors judged Ross harshly. On return to England, he was never promoted and retired a captain, with his brevet rank of major, the same as he had held in New South Wales.¹²⁶

In a dispatch of February 1790, Phillip wrote of the turbulence in the colony

¹²³ HRNSW, 1, Pt.2, p.569. Phillip to Grenville of December 1791, and p.554, Phillip to Stephens of November 1791, for retaining a company.

¹²⁴ HRNSW, 2, p.722. *The Southwell Papers*. To his mother, August 1790.

¹²⁵ *The Journal of Arthur Bowes Smyth: Surgeon, Lady Penrhyn 1787-1789*, eds. PG Fidlton and RJ Ryan, Sydney, 1979, pp.64 and 69 respectively. There are other examples of adverse comments regarding Phillip on pp.44-45 and 74.

¹²⁶ J Moore, *First Fleet Marines*, pp.294-295.

caused by Ross and between Ross and his officers. Therefore, Phillip considered there was a 'necessity of some change being made, or an additional force being sent out'.¹²⁷ This observation is of historical interest as it was the first request by the civil power to resolve a continuing clash of interests between itself and the military power by having a particular unit withdrawn from the colony. Such clashes between these two powers continued under later governors.

With the departure of the bulk of the marine battalion, the saga of the first military unit in Australia ended. For the marines, who sailed from England in May 1787, the years were long and hard with 'morals and morale low.'¹²⁸ Despite many trials and tribulations over that time, and leaving a legacy of precedent in the matter of tension between the military and civil powers, the marines had maintained the king's peace.

¹²⁷ HRNSW, 1, Pt.2, p.291. To Sydney.

¹²⁸ M Austin, PR 86/62, *Papers of Brigadier M. Austin, Australian War Memorial, File 419/4/29, Item [74], Series 20, Handwritten notes on Marines.*

Chapter 5

Soldiers Replace the Marines

In June 1789, The Right Honourable WW Grenville¹ advised Governor Phillip that, due to discontents reported as prevailing in the marine detachment, they were to be replaced by a corps to be recruited.² This would become the New South Wales Corps, so designated as its strength was fewer than the average 800 all ranks which constituted a battalion, or regiment of only one battalion.³ The Corps' 1789 establishment of four infantry companies is shown as a table (Figure 11⁴). This establishment was increased to five companies in 1791, with a sixth added by recruiting marines in the colony.⁵ As this was the only regular land force in New South Wales for twenty years, it is central to a study of early colonial security. With a chequered history, it has become known pejoratively as the "Rum Corps", but recently its image has been more sympathetically portrayed.

A major figure in the New South Wales Corps was Major Francis Grose who raised and commanded the Corps, and became lieutenant-governor when he

¹ Grenville succeeded Sydney at the Home Office.

² HRA, 1, 1, p.122.

³ Where a regiment consisted of more than one battalion, its battalion/regimental designation was, for example, Second Battalion, 73rd Regiment, normally abbreviated to 2/73rd. As only single battalions of regiments served in the Australian colonies; in this thesis, the terms "regiment", "battalion" and infantry "unit" are interchangeable.

⁴ HRNSW, 1, Pt.2, p.232. Displayed as Figure 11, Establishment Table. AJCP, reel 1073, *Out Letters Secretary-at-War New South Wales Corps, 1789-1803*, War Office [henceforth WO] 4/845, pp.7-8. On 4 July 1789, the headquarters establishment was increased by two sergeants, as shown in Figure 11.

⁵ HRA, 1, 1, p.740, Commentary Note 102, for fifth company and p.133, Grenville to Phillip of December 1789, for recruiting marines.

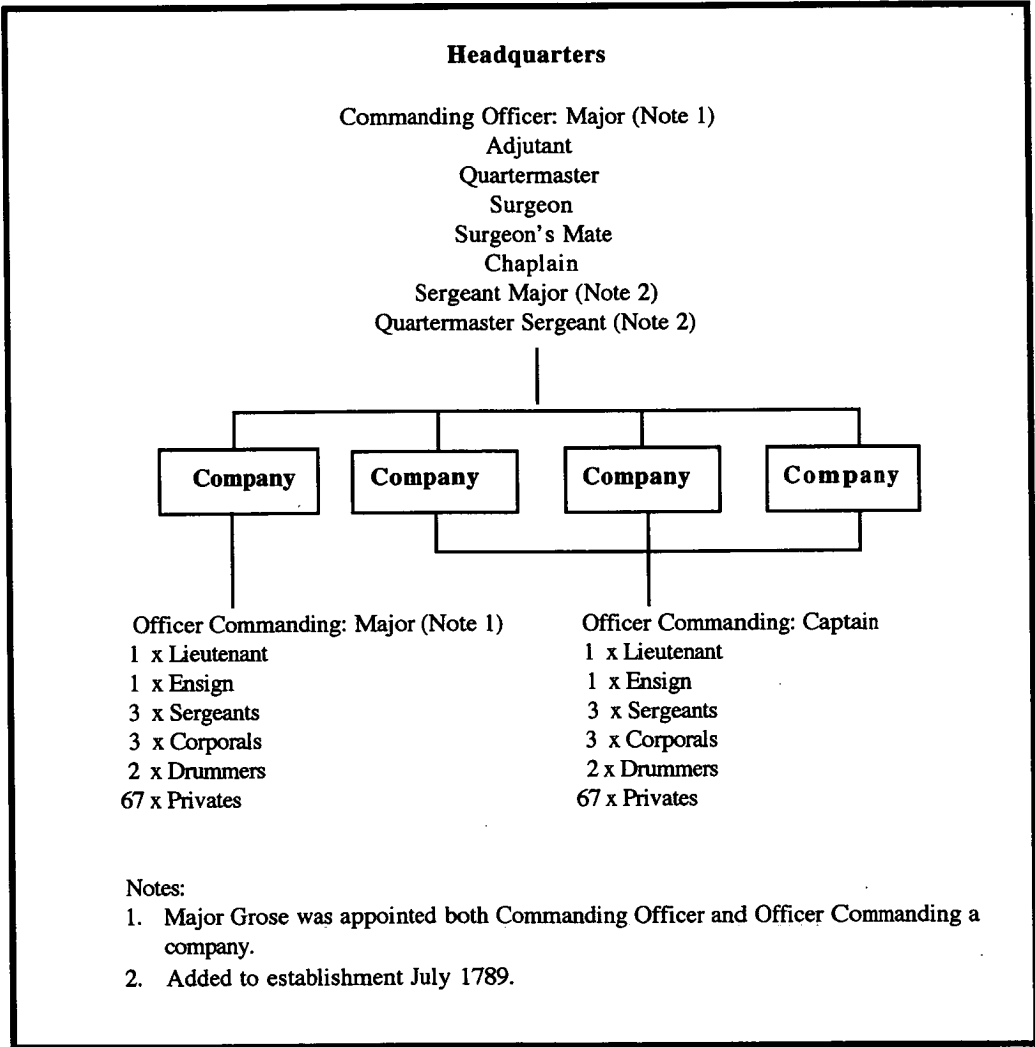


Figure 11: Establishment Table New South Wales Corps, July 1789

replaced Ross in that appointment.⁶ Following Phillip's decision to return prematurely to England, and pending the arrival of the next appointed governor, on 31 December 1792, Grose took over the duties of administrating the colony.⁷ Troubled by old war wounds, Gross himself returned to England in December 1794.⁸ Until his death, as a lieutenant general, in June 1814, Grose, as 'Colonel-Commandant', retained formal links with the New South Wales Corps and the 102nd Regiment.⁹ This is evidenced in correspondence from the War Office to Major General Grose of December 1808, advising him that 'the N. South Wales Corps under your command' will be withdrawn from the colony and redesignated the 102nd Regiment.¹⁰ Prior to coming to New South Wales, Grose had soldiered for seventeen years. As a young ensign,¹¹ he fought at Bunker Hill and subsequently was wounded twice before being invalided to England in 1779 as a captain. After spending two years as a recruiting officer, Grose was on half pay as a major when appointed to raise the New South Wales Corps in June 1789.¹² It is uncertain whether the Horse Guards¹³ offered Grose the command of the Corps because he was considered a "sound" officer, or whether he had a patron as suggested by P Statham,¹⁴

In regard to Grose's temperament, BH Fletcher points out that in

⁶ HRA, 1, 1, p.405. Grose's commission of November 1789.

⁷ HRA, 1, 1, p.403. Phillip departed in December 1792.

⁸ HRNSW, 2, pp.215-216, for war wounds; for departure, second footnote p.216, and p.314.

⁹ WA Steel, 'Captain Henry Steel and the New South Wales Corps, later the 102nd Regiment, Part 1', JRAHS, Vol.29, Pt.1, 1943, p.42, for Grose's 'colonelcy' of the 102nd, and elsewhere (p.39) to being 'Colonel-Commandant' of the Corps.

¹⁰ AJCP, reel 1073, *Out Letters Secretary-at-War New South Wales Corps, 1803-1810*, WO 4/846, p.56.

¹¹ *Australian Dictionary of Bibliography, Vol.1: 1788-1850, A-H*, (henceforth ABD, 1), London, 1966, p.488, lists born '1758?'. WA Steel, 'Captain Henry Steel and the New South Wales Corps, later the 102nd Regiment, Part 2', JRAHS, Vol.29, Pt.2, p.70, noted Grose 'served at an early age with the 52nd Regiment'. CMH Clark, *A History of Australia, I, From the Earliest Times to the Age of Macquarie*, Carlton, reprinted 1974, p.132, states born 1754.

¹² For Grose's service record: W Foster, 'Francis Grose and the Officers', JRAHS, Vol.51, Pt.3, September, 1965, p.177; HRNSW, 2, footnote p.215; ABD, 1, pp.488-489; HRA, 1, 1, p.773, Commentary Note 252.

¹³ The 'Horse Guards', was the Commander-in-Chief's headquarters in London, as opposed to the Secretary-at-War who operated from the 'War Office'.

¹⁴ P Statham, 'Ins and Outs: The Composition and Disposal of the NSW Corps 1790-1810', *Working Papers in Economic History*, Working Paper No.105, May 1988, p.3.

comparison to Ross, Grose was 'unassertive, affable and easy-going, [which] gave Phillip little cause for complaint and the two men enjoyed more amicable relations than those which had hitherto existed between the civil and military leaders.'¹⁵

However, Fletcher also writes of Grose's 'indolence', 'laxity', and 'reluctance to act on his own initiative'. Possibly Grose may have been influenced in childhood by his father (also Francis Grose) who had had two militia appointments as a captain¹⁶ and also wrote the 'enduring' satire, *Advice to Officers of the British Army*.

Typical of Francis senior's advice to subalterns was:-

Never read the daily orders. It is beneath an officer of spirit to bestow any attention upon such nonsense ...

When on leave of absence, never come back to your time; as that might cause people to think that you had nowhere to stay ...¹⁷

These satirical innuendoes by his father may have implanted some of the negative characteristics in Grose junior of which Fletcher writes. These failings subsequently contributed to unfortunate events, such as the officers becoming involved in colonial trading, and the loss, by mutiny, of the transport *Lady Shore*. But such matters lay in the Corps' future, and are considered later in this thesis.¹⁸

The War Office when instructing Grose to raise a corps for service in New South Wales, advised him he was to command the unit as a major. Presumably this was because its establishment strength was inadequate for a lieutenant colonel's command. In addition to commanding this corps, Grose was ordered to raise and command one of the four companies (usually a captain's command)¹⁹. The letter continued:-

in aid of the expenses of which [you will incur] you will be allowed to name

¹⁵ ADB, 1, p.488. Entry on Grose by BH Fletcher. Relations between Phillip and Grose were for only a comparatively short period. Grose reached the colony in *Pitt* in February 1792 (HRNSW, 1, p.595), and Phillip sailed from Sydney in December 1792 (HRNSW, 2, p.1). With the austere Phillip being of such a different temperament, it is a matter of speculation, whether, over a longer period, relations may have soured between him and Grose.

¹⁶ ADB, 1, p.488. In the Hampshire and later Surrey Militia.

¹⁷ ES Turner, *Gallant Gentlemen a portrait of the British Officer 1600-1956*, London, 1956, p.83. Grose's book was published in 1782 and 'has been reprinted many times' (p.82).

¹⁸ ADB, 1, p.489.

¹⁹ M Austin, 'The Early Defences of Australia', *JRAHS*, Vol.49, Pt.3, November 1963, p.190. For 17th and 18th century practice of majors, and above, on regimental headquarters also commanding companies.

the lieutenant and ensign of your respective companies, and to receive from the public three guineas for each recruit approved ... by [an inspection of] a general or field officer appointed for that purpose.²⁰

In this way Grose would receive payment for recruiting the Corps, and although not promoted, would receive financial benefits accrued by British regimental commanders, including control of parliamentary budgeted funds allocated for purchase of certain stores and equipment.²¹

In response to the War Office's letter of appointment, Grose proposed that should he be promoted to lieutenant colonel, he would, without expense to the Government, raise two companies. Alternatively, if he was not to be promoted, he was prepared to 'raise [all] the companies on condition of receiving the levy money, nominating the captain and subaltern officers'. This would have been to his financial benefit, as well as placing him in the position of "patron" over all his officers.²² Nevertheless, the War Office stated it would nominate the three captain company commanders, who were each to raise a company (in addition to Grose's company). The officers chosen were Lieutenants Nepean, Paterson and Hill, whose rank was shown as captain by January 1790.²³

Meanwhile, at London's request, an additional company was enlisted from marines already serving in New South Wales. In Phillip's opinion, the men who volunteered for this service were 'soldiers who had distinguished themselves by

²⁰ *HRNSW*, 1, Pt.2, p.249. Sir G Yonge of War Office to Grose of June 1789.

²¹ *HRNSW*, 1, Pt.2, p.492, for 'an assignment to be made ... [to] Maj. Fs. Grose for cloth'g' for an additional two companies: *HRNSW*, 2, p.206, for 'allowance [to Grose] equal to twenty months of reckonings' for additional companies: *HRNSW*, 2, p.43, for monies allocated for pay 'including levy money, the allowance for clothing and accoutrements and contingencies'.

²² *HRNSW*, 1, Pt.2, p.250. Apparently, based on Grose's request to nominate the 'subaltern officers' as well as captains, he misunderstood the approval he had already received (quotation in paragraph above) 'to name the lieutenant and ensign of your respective companies' - that is presumably to name the subaltern officers in all companies. The wording 'your respective companies' could be open to a slight doubt, whether respective captain company commanders, rather than Grose were authorised to name the subalterns in each company. But, normal chain of command would suggest the interpretation that this was Grose's prerogative.

²³ *AJCP*, reel 1073, *WO 17/241, Monthly Returns New South Wales Corps 1790-1809*, (no p. numbers), return of 1 January 1790. Captains were promoted, without purchase, once their companies were approved by inspection of an appointed senior officer. There are no known records of monthly returns during July-December 1789.

their good conduct for more than four years'. He nominated Captain-Lieutenant George Johnston as their company commander, and wrote that the marines enlisted 'on condition of their serving with the officer [Johnston] under whose command they had been left when the rest of the detachment was embarked for England'.²⁴ Phillip clearly felt confident in Johnston's leadership qualities. The War Office later confirmed his appointment to the rank of captain in the Corps.²⁵

Initially, the New South Wales Corps suffered from several limiting factors which thereafter impacted upon the morale and discipline of the unit. As it was not raised by reforming an existing skeleton battalion, the Corps lacked a parental sponsoring regimental headquarters. Additionally, MH Ellis notes 'the Corps wore the silver lace of the militia and colonial regiments'.²⁶ This want of a line regiment's distinguishing marks, may have caused a feeling amongst the Corps' newly recruited soldiers that they lacked those regimental traditions which helped bond regular units and accentuated *esprit de corps*. More importantly, without a parental regimental headquarters, there was no nucleus, or cadre, of trained soldiers, especially non commissioned officers - the backbone of the British Army - on which to build. The Corps was financially accountable to the Secretary-at-War, a political appointee, but operationally to the office of the Commander-in-Chief, an

²⁴ HRA, 1, 1, pp.392-393. Phillip to Dundas of October 1792. Numbers enlisted were: three sergeants, three corporals, two drummers (soldiers' sons), forty-six privates (including four time expired convicts). M Gillen, *The Founders of Australia A Biographical Dictionary of the First Fleet*, Sydney, 1989, Appendix 7, pp.443-444, for ultimately seventy marines and three sons of marines, plus eleven First Fleet convicts (all listed by name) enlisted in the Corps.

²⁵ HRA, 1, 1, pp.445-446. Yonge to Grose of July 1793. At this time, and for many years, there was a distinction between rank an officer held in his regiment, as opposed to any superior rank he may hold "in the army". Irrespective of the higher "army" rank, when an officer served in his regiment, he reverted to his regimental rank and seniority. Johnston's seniority as a captain in the Corps was dated from 25 September 1792 (HRNSW, 2, p.56). HRNSW, 3, p.526, for regimental seniority of all Corps' officers as at December 1798.

²⁶ MH Ellis, 'British Military Regiments in Australia', *JRAHS*, Vol.37, Pt.6, 1951, p.313. Ellis' statement can not be confirmed by this writer, who is concerned that in three specialist books on uniforms, silver lace was reportedly worn by some British line regiments. Possibly the militia and colonial troops did not have a thin stripe or 'worm' of the regiment's colour interwoven into the white lace material of buttonholes etc. In 1815, when the Corps had become the 102nd regiment, the colours of its officers' uniform facings were 'deep yellow' whilst their lace, like many other line regiments, was 'silver': refer:- R&H Knotel, & H Sieg, *Uniforms of the World, A Compendium of Army, Navy, and Air Force Uniforms 1700-1937*, translator RG Ball, New York, 1980, p.258. This does not resolve the question of 'militia' lace.

appointment not filled at that time.²⁷ Therefore, it was not subjected to a critical and continuous scrutiny by either a designated regimental or superior headquarters.²⁸

Apart from an occasional inspection by a senior officer, the future of the unit lay in the hands of Grose and his officers. The lack of any dynamic leadership by Grose (considered later) coupled with virtually no supervision by any higher headquarters, encouraged an excessive spirit of independence in the officers, which was to be manifested in the colony by their engaging in trade, an illegal activity for them. As early as December 1789, the limitations of Grose and the licence taken by his officers was demonstrated by a rebuke to Grose from the War Office:-

I have received a letter ... signed by all the officers of the corps under your command, the impropriety of which ... I am surprized you were not yourself immediately struck with. The commanding officer is ... responsible for the contents of every such representation ... [Their letter was] subversive of the first principles of discipline and subordination ... Upon the representation itself I shall only observe that it has been made without the smallest foundation²⁹

As it is unlikely that Grose was unaware of a matter of such common interest amongst his officers, he may well have been conniving with them in this attempt to get extra benefits. If so, this would represent a serious weakness in Grose as a commander.

Finally, the New South Wales Corps suffered a specific affliction. There was neither pride nor glory attached to the begrudged military duty of guarding convicts.³⁰ As opposed to the Corps' officers, with privileged status in the colony, the underprivileged soldiers, who enlisted 'for life' (usually twenty or twenty one years), had only the unhappy prospect of guarding convicts in an inhospitable and

²⁷ C Barnett, *Britain and Her Army 1509-1970, A Military, Political and Social Survey*, Harmondsworth, Pelican 1974, p.226. After the Treaty of Versailles in 1783, 'No Commander-in-Chief was appointed and the Secretaries-at-War were political hacks. For want of recruits the regiments became skeletons.'

²⁸ Until the introduction of a divisional organisation in the Peninsula War theatre, within the British Army's command structure there were no intermediate headquarters between that of the regiments and the commander-in-chief in London.

²⁹ *HRNSW*, 2, p.432. Yonge to Grose. Apparently concerning a hoped for 'additional pay or gratuity'.

³⁰ M Austin, *The Army in Australia 1840-1850 Prelude to the Golden Years*, Canberra, 1979, p.23. Brigadier Austin wrote 'Convict duty had never been popular, and was not considered a soldierly duty from the time of Major Ross and his marines ... onwards.'

distant continent.³¹ This was for an indefinite period, for unlike the marines, these men were not offered the prospect of being relieved by fresh troops after three years. Enlistment handicaps in the New South Wales Corps were also exacerbated by recruiting problems experienced by all regiments at that time. The late eighteenth century British Army was held in almost universal contempt by the civilian population, as the appalling service conditions under which soldiers existed were well known.³² A soldier writing of recruits to the West Norfolk Regiment in 1789, recorded:-

We had several recruits from Norfolk ... and many of them deserted from sheer hunger. They were lads from the plough-tail. All of them tall ... I remember two of them that went into decline and died during the year, though when they joined us, they were fine healthy young men. I have seen them lay in their berths, many and many a time, actually crying on account of hunger. The whole week's food was not a bit too much for one day.³³

This account was written in the same year in which the New South Wales Corps was raised.

The time allocated by the War Office for Grose to raise his corps was limited. In the War Office letter of 8 June 1789, in which Grose was officially informed of his appointment, he was also instructed 'that the corps shall be instantly raised and approved, after being reviewed by the 1st of October next'.³⁴ Despite Grose having had previous experience as a recruiting officer, he would have faced a daunting task in meeting this deadline. Up to the end of June, he was still waiting to complete his establishment of officers. For example, the 22nd Regiment was advised by War Office letter, as late as 24 June, that Ensign Fenwick [spelt 'Fenwicke' elsewhere] was appointed a lieutenant in the Corps and that the 22nd was to 'permit' him to 'quit the 22d Regiment in order to assist ... in Recruiting the

³¹ *Manual of Military Law (MML)*, London, 1914, p.159, para.44. Until 1847, enlistments were generally 'for life' for peacetime soldiering.

³² C Barnett, *Britain and Her Army*, pp.213-214, 226-227 and 236-238: for peacetime inefficiencies.

³³ Cobbett, 'Diversions of a recruit, 1789', *Rank And File, The Common Soldier at Peace and War 1642-1914*, TH McGuffie compiler, London, 1964, p.9. Quotation from Cobbett's *The Progress of a Ploughboy to a Seat in Parliament*.

³⁴ HRNSW, 1, Pt.2, p.250. Although the officers' pay was reckoned to commence from the date of the 'Beating Order' (to raise their respective companies), commencement of their pay hinged on this October inspection (p.249).

said Corps'.³⁵ The vital senior non commissioned officers - the sergeants - also had to be posted to the unit or recruited by reengaging ex-servicemen.³⁶ Under supervision of their company commanders, these key personnel had to be formed into recruiting teams to 'beat' in towns and villages. These teams usually consisted of 'an officer, two sergeants and a drummer ... [who] beat "the points of war" (his full repertoire of flams and paradiddles, with some fancy stick-clicking ...)'³⁷

Despite difficulties, the raising of the four companies proceeded quickly and between 7 July and 9 August 1789 the War Office was able to direct that particular companies be individually inspected to establish that the men were of a standard acceptable to the army.³⁸ In meeting such a tight schedule, Grose's recruits inevitably included civil and military felons, who exchanged jail for service in New South Wales.³⁹ Sordid socio-economic conditions probably provided the main incentive for potential recruits as summarised by T McAskill in her research of prior occupations of New South Wales Corps recruits:-

By and large, they were ordinary working men of late eighteenth century Britain. In the harsh social and economic conditions of the time, some resorted to crime as a way of escaping their dilemma; others enlisted in the armed forces.⁴⁰

³⁵ WO 4/845, p.6.

³⁶ MH Ellis, 'New South Wales Corps', *The Australian Encyclopaedia*, Vol.VI, ed.-in-chief AH Chisholm, Sydney, 1958, p.294. Noted 'The rank and file included veteran non-commissioned officers who had served in the American wars.' No primary source material has been located to confirm this reference.

³⁷ R Holmes, *Redcoat The British Soldier in the Age of Horse and Musket*, Hammersmith, 2001, pp.139-140.

³⁸ WO 4/845, p.10, pp.11-12, p.12, and p.14 respectively for:- War Office letters to Colonel Johnson, Chatham Barracks, directing him to inspect companies raised by the following officers; Major Grose - letter dated 7 July, Lieutenant Nepean - dated 17 July, Lieutenant Paterson - dated 31 July and Lieutenant Hill - dated 9 August 1789. The financial approval for receipt of the three guinea recruiting levy by these officers is indicated by inclusion in all instructions to Johnson that his inspection was 'in order to secure him [the company commander designate] from future loss'.

³⁹ For civil felons: R Holmes, *Redcoat*, p.138. This was not an exceptional situation in the British Army at that time, 'volunteers...[served] the monarch in a military rather than a penal capacity ... insolvent debtors and convicted criminals were frequently allowed to enlist.' For military felons: refer below p.119 and footnote 99, p.120 and footnote 101 and figure 13.

⁴⁰ T McAskill, 'An Asset to the Colony: The social and economic contribution of Corpsmen to early New South Wales', *JRAHS*, Vol.82, Pt.1, June 1996, pp.55-56. McAskill's continual use of the non British or Australian Army word 'corpsmen', rather than using accepted words such as 'soldiers', 'troops' or 'other ranks', is deplored in this detailed military study, and spoils an otherwise carefully researched article.

Not unexpectedly, inspections of the formed companies revealed deficiencies in the acceptability of recruits. For example, in Lieutenant Nepean's company, William Chappell 'who is undersized & over aged' together with five men unfit for service were ordered to be discharged. Nepean was instructed that 'They Must be replaced as well as the two who deserted previous to the Inspection'.⁴¹ Nevertheless, Grose satisfied His Majesty's 'expectations' that the unit would be 'approved, after being reviewed by 1st of October'.⁴² On instructions of the War Office, a major general carried out this inspection and classified the Corps fit 'for active, & immediate Service'.⁴³ Despite this, the standards of training and discipline would not have been good, considering the short time between the soldiers' recruitment and being declared fit for active service.

The first muster roll of 'his Majesty's New South Wales Corps of Foot' covering the period 5 June to 24 December 1789, is summarised (excluding officers and staff) as a table (Figure 12).⁴⁴ This shows significant wastage rates after enlistment. Of 383 other ranks named as having enlisted⁴⁵, only 71 percent were effective as at 24 December. The greatest single wastage was 16.71 percent caused by desertion. Most of these desertions, totalling forty-eight men (43.24 percent of all wastage) were recorded on an 'Intermediate' list of non-effective soldiers as at 24 December 1789, who only served for an 'intermediate time during the muster [period] as set down'.⁴⁶

⁴¹ WO 4/845, p.13. The order to replace these eight men, out of a total of sixty-nine drummers and privates (see Figure 11, 1789 Establishment Table), was equivalent, in this company, to a 11.59 per cent wastage rate after enlistment.

⁴² HRNSW, 1, Pt.2, p.250.

⁴³ WO 4/845, p.15. War Office instruction to Major General Jossyn (? - partly illegible) of 22 September 1789. He was to inspect the New South Wales Corps to assess their fitness 'for active, & immediate Service, as well as of the progress they appear to have made in learning their exercises.' Also Jossyn was 'to distinguish the Respective Numbers of Highlanders, Lowlanders, Irish, & English Recruits'. This information is not on record. See below, Chapter 9, p.210, footnote 6, for similar detail covering the period 1808-1810.

⁴⁴ HRNSW, 2, pp.433-436. The 'h' in 'his' is in lower case.

⁴⁵ Actually 387 are listed, but this number includes four privates, on the Intermediate List, who were promoted corporal between 8 September and 4 October 1789, but are still listed amongst the privates.

⁴⁶ HRNSW, 2, p.436. Phrase extracted from an authenticating certificate appended to the muster.

Statistical Summary of Rank and File						
Rank	Totals Listed	Discharged	Died before Embarkation	Transferred other regts.	Deserted	Effectives
Sergeant	17	-	-	-	-	17
Corporal	17*	-	-	-	1	16*
Drummer	7	-	-	-	-	7
Private	254	6	2	-	15	231
Total	295	6	2	-	16	271
'Intermediate' List	88 (92*)	22	1	16***	48	1** (4*)
Final Total	383 (387*)	28	3	16	64	272
Percentage	99.99	7.31	.78	4.18	16.71	71.01
<p>* Four corporals promoted, and shown under that rank, but whose names are duplicated on 'Intermediate' list as private soldiers.</p> <p>** One soldier who was promoted to corporal on 7th November 1789, and whose name was not incorporated in the listing of corporals.</p> <p>*** Probably fraudulent enlistees from other units, returned to their original units.</p>						

Figure 12: New South Wales Corps Muster 5 June-24 December 1789

In addition to the 272 effective other ranks in Figure 12, there were eighteen officers and staff, indicated as effective,⁴⁷ making a total of 290 all ranks. However, amongst supporting documents verifying the muster, was a *ProofTable*, showing 305 all ranks effective as at 24 December.⁴⁸ Confusingly, another supporting statement for the muster, lists a total of 291 all ranks.⁴⁹ In comparison, the Corps' 'Monthly [Strength] Return', as at 1 January 1790 - only a week later than the muster - gives the strength as 305 all ranks.⁵⁰ While this exactly agrees with the total in the *ProofTable*, the break up of numbers according to rank is not consistent, and therefore considered coincidental. Statham, analysing the 1 January 1790 Monthly Return (which she incorrectly calls the 'Muster Roll 24/12/89'), derives yet another set of figures. She wrote that 376 all ranks were 'sworn in' and then deducting eighty-eight lost through desertions, death, etc., she arrives at an effective strength of 288 all ranks.⁵¹ This is only two fewer than the combined total of Figure 12 (272) plus the 18 officers and staff. The variety of results obtained, in endeavouring to establish the number of effectives in the Corps at one particular time, illustrates the difficulty in obtaining an accurate picture of its strength, including any detachments, during its service in England and New South Wales.

Without a broad comparison of desertion rates from other infantry units which had also received posting orders for New South Wales, it is hard to draw reasonable conclusions regarding the apparently high desertion rate of the Corps. As a sample of comparative rates under similar economic conditions, the Corps, recruited in a bleak economic period six years after the American War, may be

⁴⁷ *HRNSW*, 2, p. 433 and footnote. Actually twenty-two officers and staff (chaplain, adjutant etc.) are listed, but by 24 December 1789, the following officers had left the Corps:- Fenwick, Martin, Kirby and Catterell. Bloxam, although he never joined the Corps, is included as an effective as he was not 'Superseded, [until] 19th January 1789' (an error in *HRNSW*, should have read 1790).

⁴⁸ *HRNSW*, 2, p.437 for '*ProofTable*' (italics as per *HRNSW*).

⁴⁹ *HRNSW*, 2, p.436 (first paragraph).

⁵⁰ *WO 17/241*, first two folios.

⁵¹ P Statham, 'Ins and Outs', p.4 for 376 'sworn in' (presumably she is including officers who are "appointed" to a unit, not "sworn in") less the eighty-eight, making a final total of 288 effective as at 24 December 1789. As her reference for these calculations she quotes *WO 17/241*, which does not produce statistics in accordance with her statement on p.4. Probably she also worked directly from the muster.

usefully compared to the 17th Regiment, which departed for Australia in an equally depressed climate, fourteen years after the next major series of wars, the Napoleonic Wars. In 1829, the 17th Regiment suffered twenty-two desertions during the three months after the regiment received orders for duty in New South Wales, compared to four desertions in the previous quarter.⁵² This regiment's record shows a strong disinclination by soldiers to serve in the colony. Indeed, the regiment's newly appointed Commanding Officer transferred to half pay within days of the the order being received, apparently to avoid service in New South Wales.

As opposed to the 17th Regiment, the New South Wales Corps was enlisted specifically for service in that colony and therefore the "remote convict guard distaste" factor should have been less important. Nevertheless, even before the first soldiers in the Corps sailed for New South Wales,⁵³ an additional sixteen men, including a corporal, had deserted, over and above the forty-eight desertions recorded on the 'Intermediate' listing. Reasons why these forty-eight volunteers deserted would have been diverse. But amongst deserters were probably drunkard enlistees and others who quickly regretted their actions, freedom seeking prisoners released from civil or military jails to enlist, and professionals who joined to receive their bonus then disappeared - a common occurrence. Against these reasons, it is argued that disillusionment with army life, and the realisation of an indefinite continuation of guard duties in far away New South Wales, would have been a strong motivating factor for the final sixteen desertions. This was not a happy start for the hastily recruited unit.

Grose summed up the problem of the desertion rate in a letter to Under

⁵² JF McMahon, 'The British Army and the Counter-Insurgency Campaign in Van Diemen's Land with Particular Reference to the Black Line', Hobart, unpublished MHum Thesis, University of Tasmania, 1995, p.8. Based on a study of AJCP, reel 3749, WO 12, *Muster Book and Pay Returns, 17th Regiment*, 25 June-24 September 1829.

⁵³ C Bateson, *The Convict Ships 1787-1868*, Glasgow, 1969, p.126. The first convict transport guard detachments were required for the Second Fleet (*Surprize, Neptune and Scarborough*) reportedly embarked in December 1789, and sailed on 19 January 1790. Bateson is apparently wrong in his December 1789 embarkation date. A War Office letter of 13 November 1789 stated that three detachments had already embarked and required 'a proper supply of ammunition for this service' (WO 4/845, p.20). Therefore, by late November, probably some convicts were embarked.

Secretary Nepean, stating 'should any further desertion take place previous to their departure (than which nothing is more likely) I don't know how we shall manage.' He had cause for concern, as a detailed enclosure to his letter, showed only 162 all ranks available in barracks, after 115 sailed in the three vessels of the Second Fleet and twenty-four (not including Grose) were embarked on HMS *Gorgon*.⁵⁴ The 162 had to meet guard commitments, scheduled in 1791, for nine transports, now known as the "Third Fleet"⁵⁵. This was a major involvement compared to the Second Fleet, of only three transports. While Grose was concerned over a lack of soldiers, from the evidence, he had no problems in attracting officers to the New South Wales Corps.

Prime Minister Pitt's post-war economies, created unemployed officers as well as destitute ex-soldiers.⁵⁶ Many were placed on the half pay list, or expected to be. Grose was 'on the Half Pay of the late 96th Regiment'.⁵⁷ Likewise, young Ensign John MacArthur was on half pay from 1783 to 1788,⁵⁸ until he was appointed to the 68th Regiment. Half pay rates were a pittance, particularly for

⁵⁴ HRNSW, 1, Pt.2, p.432. Grose to Nepean of January 1791. In the enclosure, Grose is shown as 'On board the Gorgon', in fact he sailed in July 1791, on *Pitt*, which followed the Third Fleet (footnote, p.285). No doubt there were other minor irregularities in the figures, nevertheless, they indicate the extent of Grose's manpower problem.

⁵⁵ C. Bateson, *Convict Ships*, p.132. These were: *Matilda*, *Atlantic*, *Salamander*, *William and Ann*, *Active*, *Albermarle*, *Britannia* and *Admiral Barrington*, all out of Portsmouth or Plymouth, sailing on 27 March 1791, and *Queen*, from Cork, in April 1791, carrying the first batch of Irish convicts to the colony. All ships carried military guards.

⁵⁶ R Holmes, *Redcoat*, p.105. Apart from the 106th Regiment being transferred to the Irish Establishment at a significantly reduced (cost saving) establishment, twelve infantry regiments were disbanded in 1783, with another ten the following year.

⁵⁷ WO 4/845, p.3. For Grose this appointment must have been financially advantageous. In addition to being back on full pay and receiving the recruiting levy and perquisites of a commanding officer, in this new corps, he had a fair likelihood (as happened) of being promoted lieutenant colonel without purchase. This represented a considerable financial saving of at least £1300 in attaining that rank (see below, p.113 and footnote 63).

⁵⁸ A Atkinson, 'A New John Macarthur', *The Push From The Bush*, No. 17, April 1984, pp.44-45. Aged sixteen, Macarthur was commissioned in 1782 and placed on half-pay in 1783. He returned to duty in 1788 and in 1789 was appointed to the New South Wales Corps as a lieutenant.

junior officers.⁵⁹ Writing of naval and marine officers (the army would have been no different) ES Turner stated:-

many half-pay officers found their energies absorbed by the struggle to live. Quite a number (Nelson included) went to live on the Continent, in the belief, not always justified, that they would be able to cut their expenses.⁶⁰

Amongst serving officers, insecurity and the prospect of future retrenchment, was an obvious motivation to volunteer for what was a secure long term appointment in the New South Wales Corps. In addition, the War Office offered special inducements to encourage officers to apply.

For junior ranked officers, there was a strong financial incentive to join the new corps. If accepted, they would be gazetted in the New South Wales Corps with a step up in rank, without the usual need to 'purchase' the promotion. For example, Ensign MacArthur was promoted to lieutenant on posting to the Corps. This type of promotion offered a considerable financial gain, without any monetary layout, as exemplified by the purchase rate for an ensign, the lowest officer rank in British infantry. In 1698, almost a hundred years before the Corps was raised, '£400 would buy an ensigncy' in the 1st Foot Guards.⁶¹ By 1821, 'In pursuance of the commands of his Royal Highness the Commander-in-Chief', the same rank was officially revalued for purchase at £1200, whilst the minimum price for an ensigncy in the less prestigious line regiments was £453.⁶² However, in 1793, £450 was the cost of purchasing a first appointment as an ensign, with the prices paid to the War Office 'by officers of infantry on promotion were as follows; to lieutenant, £250;

⁵⁹ J Paget, *The Story Of The Guards*, London, reprinted 1988, p.134. An ensign's pay up to the Crimea War (1853-1856) 'was only four shillings and six pence' per day. Presumably an ensign's half pay was therefore 2s.3d. (two shillings and three pence). However, this pay example is at the increased rate introduced 'In the 1790's [when] a soldier's gross pay was raised from the 8d. a day first established under the Commonwealth to 1s.' (C Barnett, *Britain and Her Army*, p.241). W Foster, 'Francis Grose', p.192; records that a lieutenant in the Corps received 'three and sixpence a day', therefore half pay in that rank, up to the 1790's, would have been 1s.9d., with an ensign receiving less. As a comparison, in the early nineteenth century, a baker, a lower grade of civilian tradesman, received 'at best ten shillings per week', about 1s.5d. per day (T McAskill, 'An asset to the Colony', p.44).

⁶⁰ ES Turner, *Gallant Gentlemen*, p.91.

⁶¹ C Barnett, *Britain and Her Army*, p.137.

⁶² *English Historical Documents, 1783-1832*, eds. A Aspinall and EA Smith, London, 1971, p.863. While this was the official rate, normally the actual price negotiated between buyers and sellers was considerably higher.

captain, £1100; major, £1200; lieut-colonel, £1300'.⁶³ Not many newly commissioned officers were as lucky as Captain Steel, the youngest captain ever to join the New South Wales Corps. Apparently due to patronage, he was under the age of ten when he was first appointed an ensign in the 55th Regiment, and was still under ten when promoted lieutenant three months later.⁶⁴ However, during the Napoleonic War, P Chapman notes that:-

Although first commissions in the army were still purchasable, most commissions [as ensign] were not so obtained, since they were open to any man over sixteen years of age and able to produce 'a written recommendation from a field officer that he was a gentleman fully qualified to hold an ensigncy', a qualification which seems to have meant little more than basic literacy⁶⁵

Finally, on retirement, an officer received 'a lump sum equivalent to the value of his commission, so that he got back the sums which he had expended. This was termed Retirement by Sale of Commissions, but the regulations varied from time to time'.⁶⁶

The War Office stated that for the New South Wales Corps 'lieutenants are to be selected from the rank of ensigns'. Also, for a young man, hoping for an appointment as ensign in the Corps, this was purchase-free to those over the age of sixteen, who were recommended by Grose for first appointment in that rank. At the time, this age restriction did not apply in other regiments. Further, if the Corps 'should be reduced ... officers will be entitled to half-pay' at their higher rank.⁶⁷ Therefore, at a time when the worst 'of eighteenth-century [British] military abuses flourished',⁶⁸ the New South Wales Corps beckoned to officers as a business opportunity, with a bonus of enhanced social status on promotion, or alternatively, a return to the active list. The general ethos of the British Army's officer corps, at

⁶³ *The Life of A Regimental Officer During the Great War 1793-1815, from correspondence of Colonel Samuel Rice, C.B., K.H. 51st Light Regiment and from other sources*, compiled by Lieutenant Colonel AF Mockley-Ferryman, Edinburgh, 1913, pp.15-16.

⁶⁴ WA Steel, 'Captain Henry Steel Pt.1', p.37. The article suggests that it was patronage that gained Steel these early promotions in 1795.

⁶⁵ *The Diaries and Letters of G.T.W.B. Boyes, Volume 1 1820-1832*, ed. P Chapman, Melbourne, 1985, p.40. The term 'field officer' had, and still applies to officers of the rank of a major or above until they become 'general officers'.

⁶⁶ *The Life of A Regimental Officer*, p.16.

⁶⁷ HRNSW, 1, Pt. 2, p.249. Yonge to Grose of June 1789.

⁶⁸ C Barnett, *Britain and Her Army*, p.226.

that time, is summed up by Turner:-

All too often the commission was not sought as a means of entry into an honourable profession, but as a gambling counter which could be exchanged for a more valuable one. By going on half pay at the right moment and exchanging into other regiments, a man could work his way up to field rank without ever being faced by the tiresome necessity of commanding troops. If unlucky enough to be called for active service, he could sell out and, like a stock market gambler, make a tidy profit on a commodity he had never seen and never wanted.⁶⁹

An expectation of private profit probably motivated some officers to join the New South Wales Corps, with hopes centred on obtaining land grants, or supplementary civil appointments (with added pay) in the colony. There was also the knowledge that being far removed from the supervision of the Horse Guards in London, a more *laissez faire* attitude could be adopted once they were established in the colony. Officers of the New South Wales Corps were probably aware of Phillip's dispatch of 16 May 1788,⁷⁰ which questioned whether land would be granted to officers in the colony, and of the 'hardship' felt by these officers for whom no such approval had been given.⁷¹ While the New South Wales Corps was being raised, London's approval, of 22 August 1789, to make land grants to marine other ranks and also to 'persons ... disposed to become settlers'⁷², would have been common knowledge in the Corps, and encouraged officers to believe that they, like the other ranks, would later receive such an approval. This hope for profit is indicated by a letter written by twenty one year old Elizabeth, wife of Lieutenant Macarthur, prior to sailing from England. She wrote of 'my husband's exchange into a corps destined for New South Wales, from which we have every reasonable expectation of reaping the most material advantages.'⁷³ In commenting on John Macarthur's motives, Atkinson notes 'there is no evidence of military ambition. He

⁶⁹ ES Turner, *Gallant Gentlemen*, p.117.

⁷⁰ Acknowledged by the Home Secretary on 19 June 1789 (*HRA*, 1, 1, p.34). That month, Grose received his orders to raise the New South Wales Corps. Presumably in the period July-December 1789, the thrust of Phillip's dispatch would have become common knowledge as a result of enquiries by interested Corps officers.

⁷¹ *HRA*, 1, 1, p.35. For historical background of land grants to officers, Commentary Notes 29, pp.721-722, and Note 176, pp.758-759.

⁷² *HRA*, 1, 1, p.124. Grenville to Phillip.

⁷³ *Some Early Records of the Macarthurs of Camden*, ed. S MacArthur Onslow, Sydney, 1914, p.2. Letter to her mother, of 8 October 1789.

and his wife were willing to try their fortunes abroad'.⁷⁴ Other officers would have held similar aspirations.

Although the officers were ordered not to 'dispose [sell] of their present commissions' before transferring from their old regiments to the New South Wales Corps, 'they will be considered as purchasers [at the higher rank] in the new corps'.⁷⁵ This meant that on being promoted without purchase in the Corps, an officer's higher rank immediately became a saleable commodity. For example, eight days after Ensign Fenwicke, from the 22nd Regiment was gazetted a lieutenant in the Corps, his exchange (privately negotiated sale of a full time appointment, officially endorsed by Whitehall) was notified in the *London Gazette* of 24 October 1789, which read 'Lieutenant Edward Abbott, from half-pay of 73rd regiment, to be lieutenant *vice* Michael Stovin Fenwicke who exchanges [into the 73rd]'.⁷⁶ A second exchange advised in the same *Gazette*, also involved a former ensign in the 22nd Regiment, Lieutenant George Richard Marton [Martin], selling out to 'Lieutenant John Townson, from half-pay of the 50th regiment'.⁷⁷ Martin transferred to the 50th on half pay in the rank of lieutenant.⁷⁸ Apparently Fenwicke and Martin, whilst still ensigns in the 22nd, had (possibly together) planned their small financial windfall.

Initially, all officers, except Grose (with an honourable war record and his recruiting skills) were serving on full time duty prior to their appointments to the Corps. With Pitt's stringent peacetime economy, it is assumed that because these officers were actively serving, they were of reasonable quality as judged by the standards of the day. It was only after Fenwicke and Martin sold out, that half pay

⁷⁴ A Atkinson, 'John MacArthur', p.45.

⁷⁵ HRNSW, 1, Pt.2, p.249.

⁷⁶ I Lee, *The Coming Of The British To Australia 1788 to 1829*, London, 1906, p.243, quoting the *London Gazette* of 24 October 1789. HRNSW, 2, footnote, p.433 for Fenwick exchanging into the 73rd.

⁷⁷ I Lee, *The Coming Of The British*, p.243. 'Martin' incorrectly transcribed as 'Marton' from the *Gazette*. The Muster-roll of the Corps from 5 June-24 December 1789 (HRNSW, 2, p. 433) lists Lieutenant 'George Richard Martin' with a footnote: 'Transferred to the 50th Regiment, and placed on half-pay, 23rd October, 1789.'

⁷⁸ HRNSW, 2, footnote, p.433.

officers started to join the Corps. The officers, initially gazetted, after Major General Jossyn's inspection, were :-

'Major Frances Grose from half-pay of the late 96th regiment, to be major commanding.

First Lieutenant Nicholas Nepean, from the Marines, to be captain of a company.

Lieutenant William Hill, from the 6th regiment of Foot, to be captain of a company.

Lieutenant William Patterson, from the 73rd regiment, to be captain of a company.

Ensign John Macarthur, from the 68th regiment, to be lieutenant.

Ensign Michael Stovin Fenwicke, from the 22nd regiment, to be lieutenant.

Ensign Joseph Foveaux, from the 60th regiment, to be lieutenant.

Ensign George Richard Marton, from the 22nd regiment, to be lieutenant.

Quartermaster William Duberly to be ensign.

John Thomas Prentice, gentleman, to be ensign.

Francis Kirby, gentleman, to be ensign.

C de Catterel, gentleman, to be ensign.

John Bain, clerk, to be chaplain.

Thomas Rowley, gentleman, to be adjutant.

William Duberly, gentleman, to be quartermaster.

Surgeon's mate James Macauley, from 33rd regiment, to be surgeon.'⁷⁹

That the New South Wales Corps officers were prepared to volunteer for 'service of not the most eligible kind'⁸⁰, indicates some uniformity of motive in applying for an unpopular unit. It is surmised that most, or all, of these officers did not have finances available to purchase a higher rank in their own, or another respected regiment, stationed in Britain. Therefore, to gain promotion, these less affluent members of the British officer class had to volunteer to serve abroad. Probably the same could be said of some of the "gentlemen" who grasped the chance to become ensigns without purchase. However, the selection of the seven ensigns initially commissioned into the Corps appears unfortunate. By January 1790, Kirby had sold out, De Catterell had 'Retired' and Bloxham was

⁷⁹ I Lee, *The Coming Of The British*, p.242. Quoting *London Gazette* of about 16 October 1789.

⁸⁰ *HRNSW*, 2, p.124. Comment by Yonge of February 1794. While this was written in relation to the soldiers, a similar opinion would apply to the officers' service.

'Superseded'.⁸¹ Nevertheless, the financial status of the first officers appointed to the Corps (except the two lieutenants who sold out and three young ensigns) does not mean that they were not of an equivalent standard to that of other officers in line regiments.⁸² In the climate of the times, probably Kirby, like Fenwick and Martin, sold out to obtain a small, but long term pension, with no expense or effort.

History has painted a very ambivalent portrait of the New South Wales Corps. From its earliest days in colonial service it suffered from adverse comments. For example, Governor Hunter, in a dispatch of August 1796, was blunt in his condemnation. He wrote:-

Soldiers from the Savoy [London's notorious military prison⁸³], and other characters who have been considered as disgraceful to every other regiment in his Majesty's service, have been thought fit and proper recruits for the New South Wales Corps ... to which the dregs and refuse of our native country are directed by its laws to be sent as a punishment⁸⁴

After the Corps had been re-designated the 102nd Regiment in December 1808, its second Commanding Officer was Lieutenant Colonel (later General) Charles Napier. He replaced Lieutenant Colonel George Johnston, when Johnston went on trial for usurping power from Governor Bligh in 1808. In Steel's opinion Napier was 'chagrined' about this appointment, and wrote 'I have been appointed to the command of the 102nd, a colonial corps recently returned from Botany Bay, with the stigma of mutiny upon it.'⁸⁵ In HV Evatt's opinion 'without a doubt, the character and standing of both officers and men was distinctly inferior to that of regiments engaged elsewhere in the King's service.'⁸⁶ More recently, KS Inglis

⁸¹ *HRNSW*, 2, footnote, p.433. R Holmes, *Redcoat*, p.113. Referring to the two "honorary" gentlemen (Rowley and Duberley), adjutants were often ex-sergeant majors, experienced in drilling troops as opposed to young officers, and quartermasters were 'always' ex-rankers. Eventually, quartermasters were granted the formal rank of "lieutenant and quartermaster".

⁸² C Barnett, *Britain and Her Army*, p.244. The British Army's regular infantry consisted of the Guards and numbered Line Regiments, the Rifle Brigade was not established until 1816 from previously numbered regiments.

⁸³ TG Parsons, 'Courts Martial, The Savoy Military Prison and the New South Wales Corps', *JRAHS*, Vol.63, Pt.4, March 1978, p.257. For description of Savoy - including 'a small square of about forty feet ... Cold and damp in winter and stifling in summer it often housed over 100 men, most of whom contracted gaol fever'.

⁸⁴ *HRA*, 1, 1, p.574. To Portland.

⁸⁵ WA Steel, 'Captain Henry Steel Pt.2', p.74.

⁸⁶ HV Evatt, *Rum Rebellion A Study of the Overthrow of Governor Bligh by John Macarthur and the New South Wales Corps*, Sydney, 1939, p.26.

supported this assessment, stating:-

Both officers and men were below the average of the British army in character and competence; for new regiments such as this one always had difficulty in attracting good officers, and service in the colonies was regarded as the lowest form of military employment. The ranks of the corps included men who had joined in order to get out of military prison⁸⁷

Even in the colony, some, including a corporal and three soldiers still (unsuccessfully) tried to escape by planning to steal a boat, with the intention of reaching Java.⁸⁸ The most denigratory description of the Corps comes from the standard historian of the British Army, Sir JW Fortescue, who refers to the unit as the 'petty police-corps at New South Wales'.⁸⁹ Finally, AGL Shaw wrote:-

the Corps' rank and file always were an unsavoury lot; there was no real decline in their moral standards during their term in the Colony, and they merited almost any unsavoury soubriquet they received.⁹⁰

From contemporary times onwards, there has been a consistent condemnation of the "Rum Corps". Nevertheless, there are other opinions which deserve consideration.

Despite these various criticisms, Shaw does qualify his views by perceptively noting the effect of war on that unit, writing 'the Corps probably degenerated as time went on, especially after the outbreak of war with France in 1793'. Shaw quotes MH Ellis, that recruits in 1795-1796 were 'of a class reckoned unmanageable even in the Savoy Military Prison'.⁹¹ Figure 13 from *A Military History of Australia*, shows the annual number of ex-Savoy soldiers in the Corps.⁹² By 1794, an increase in this group is noticeable, peaking in 1799, thus bearing out Shaw's contention that as a result of war with France, the standard of men was lowered.

⁸⁷ KS Inglis, *The Australian Colonists An exploration of social history 1788-1870*, Carlton, 1974, p.181.

⁸⁸ D Collins, *An Account of the English Colony in New South Wales*, Christchurch, undated, pp.189-191. Up to eight soldiers were implicated (p.190).

⁸⁹ JW Fortescue, *A History of The British Army, 1789-1801*, Vol.4, Pt.1, London, 1906, p.528.

⁹⁰ AGL Shaw, 'The New South Wales Corps', *JRAHS*, Vol.47, Pt.2, June, 1961, p.129.

⁹¹ AGL Shaw, '1788-1810', *A New History of Australia*, ed. F Crowley, Port Melbourne, reprinted 1990, p.13.

⁹² J Grey, *A Military History of Australia*, Cambridge, 1999, p.8. Adapted by Grey from P Statham, 'Ins and Outs', Table VII, p.13, and further edited for this thesis.

Year	Corps strength in N.S.W.	No. of ex-convicts	No. of ex-savoy
1790	-	-	-
1791	192	5	-
1792	358	5	4
1794	496	41	21
1795	516	58	25
1796	522	54	24
1797	535	59	25
1798	564	72	38
1799	564	76	40(a)
1800	577	76	38
1801	635	93	35
1802	685	96(b)	34
1803	682	86	32
1804	563	71	26
1805	579	70	26
1806	587	69	26
1807	596	65	25
1808	601	63	21
1809	802	62	21
1810	794	57	21
<p>(a) Maximum representation, 7.09 per cent. (b) Maximum representation, 14.01 per cent.</p> <p>General Note. These figures must be considered an approximation. For example, <i>HRNSW, 1, Pt.2, p.40</i>, refers to 'two soldiers from the Savoy' being aboard H.M.S. <i>Gorgon</i> in December 1790. As this ship reached Port Jackson in September 1791 (C Bateson, <i>The Convict Ships</i>, p.131), at a minimum, two 'ex - Savoy' should be tabulated for the year 1791.</p>			

Figure 13: Composition of the New South Wales Corps 1790-1810

A different opinion was expressed by FM Bladen, editor of *Historical Records of New South Wales*, who, in 1895, wrote 'There is ... no evidence to show that the privates of the New South Wales Corps were any worse than the average British soldier of the day.'⁹³ Steel offered the same view in 1943⁹⁴ and this sentiment has found an echo amongst more recent historians. Brigadier Austin⁹⁵, writing critically of an article by TG Parsons⁹⁶, rhetorically questioned whether justice had been done to the record of the New South Wales Corps. Austin's response was 'I think not.' Although Parsons had earlier expressed a derogatory opinion, he changed his views and later contended that 'Like the eighteenth-century British army of which it formed a part, the New South Wales Corps was much more of a cross-section of British wage-earning society' than previously admitted.⁹⁷ Hence, the quality of its soldiers may have been no worse than in other regiments. Parsons' argument is supported by T McAskill who based her findings on a study of the occupations of recruits prior to joining the Corps.⁹⁸

Parsons' later opinion was based on the unpopularity of the British Army, and its harsh conditions of service which made recruiting difficult, and therefore all regiments contained a number of convicted military felons. Nevertheless, Parsons conceded that certain units were designated to hold military felons. These were 'batallions [sic] of the 60th Regiment serving in the West Indies; during their recruitment the New South Wales Corps and Simcoe's Queen's Rangers shared the bulk of the Savoy deserters'.⁹⁹ This statement by Parsons is not consistent with his argument that the Corps represented a cross section of the army. It is also in conflict with statistics in Figure 13, that according to the source quoted, no ex-Savoy soldiers joined the Corps in 1790 and 1791. Parsons in his earlier article, listed by name three soldiers who were ordered, as disciplinary punishment, to join

⁹³ HRNSW, 3, p.xxvi.

⁹⁴ WA Steel, 'Captain Henry Steel Pt.2', p.70. Stating that they were 'no worse or no better' than other units.

⁹⁵ M Austin, 'Paint My Picture Truly', *JRAHS*, Vol.51, Pt.4, December, 1965, p.350.

⁹⁶ TG Parsons, 'The Social Composition of the Men of the New South Wales Corps', *JRAHS*, Vol.50, Pt.4, October 1964, *passim*.

⁹⁷ T G Parsons, 'Courts Martial - Savoy', p.259.

⁹⁸ T McAskill, 'An asset to the Colony', *passim*.

⁹⁹ TG Parsons, 'Courts Martial - Savoy' p.258.

the Corps in 1790, but is silent about whether or not they were transferred from the Savoy.¹⁰⁰ He does however quote from a letter of July 1789:-

I am directed by the S.at W. [Secretary at War] to desire that you will from time to time deliver to Major Grose such of the said Deserters as he may think proper to remove from the Savoy Prison.¹⁰¹

This contradicts the table (as does this author's 'General Note' to the table) that no soldiers from the Savoy joined the Corps in 1790 and 1791. Irrespective of this quibble regarding when the first Savoy "recruits" joined the Corps, Figure 13 illustrates the trend of enlistments of soldiers from that source.

Other writers have recently portrayed the Corps in a more favourable light. In *A Dictionary of Australian Military History*, I Grant comments that 'Despite problems over pay and poorer quality of the recruits during the Napoleonic War, the corps served the colony with great distinction during the period of convict unrest between 1800-1804.'¹⁰² Another author, G Odgers, while giving passing reference to the rum trade and 'constantly quarrelling with the successive naval governors', continued with a similar laudatory theme. He wrote 'the Corps proved its value in its primary role as a military force when it was called upon to suppress a convict insurrection at Castle Hill in 1804.'¹⁰³

Grant's and Odgers' view is played down by J Grey, who disputes (correctly in this author's opinion) the military worth of the New South Wales Corps, based on its intervention at Castle Hill. He refers to this incident as being 'militarily insignificant' but agreed with Parsons that 'the overall quality of the regiment was not demonstrably worse than ... elsewhere in the British army'.¹⁰⁴ Grey saw the Corps' greatest value as providing a pool of skilled and semi-skilled settlers, and also a sound colonial infrastructure from 'trading and farming activities both during and after their [members] service in the Corps'. This is also the thrust

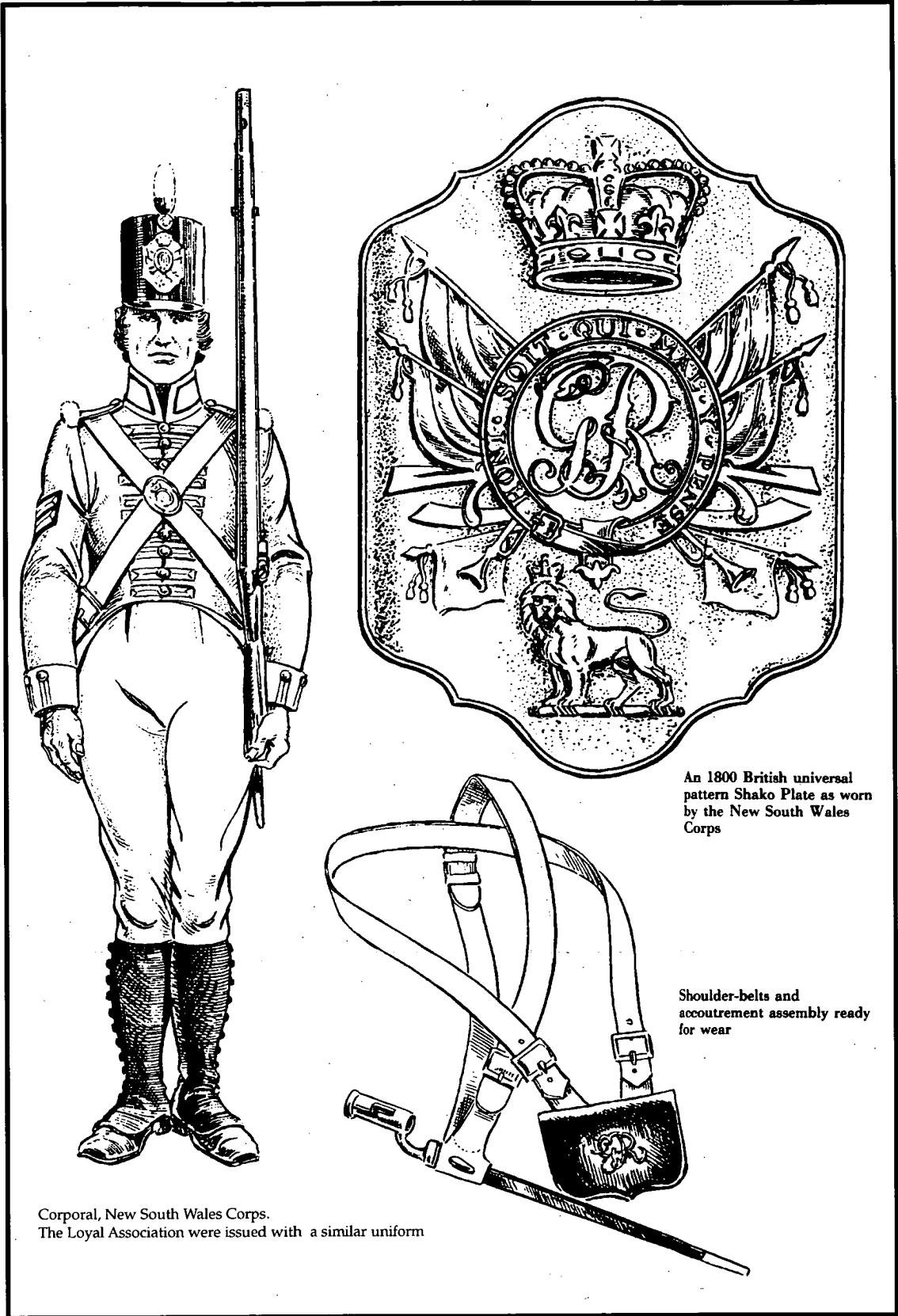
¹⁰⁰ TG Parsons, 'Social Composition', p.299.

¹⁰¹ TG Parsons, 'Courts Martial - Savoy', p.258 and footnote 78, p.262.

¹⁰² I Grant, *A Dictionary of Australian Military History*, Milsons Point, 1992, p.263.

¹⁰³ G Odgers, *Army Australia an Illustrated History*, Frenchs Forest, 1988, p.13. M Wedd, *Australian Military Uniforms 1800-1982*, Kenthurst, 1982, p.12, for Figure 14.

¹⁰⁴ J Grey, *A Military History*, p.11 for 'militarily insignificant', p.7 for 'overall quality' and p.12 for 'trading and farming'.



Corporal, New South Wales Corps.
The Loyal Association were issued with a similar uniform

An 1800 British universal
pattern Shako Plate as worn
by the New South Wales
Corps

Shoulder-belts and
accoutrement assembly ready
for wear

Figure 14: Corporal, New South Wales Corps

of McAskill's argument, which like Grey's, was expressed earlier by Ida Lee, who in 1906, wrote that 'Some of its officers and many of its men ... turned colonists, and did much for the country, notably Captain John MacArthur.'¹⁰⁵ Grey in writing of longer term benefits, which flowed from the Corps' service in the colony, considers that 'It is time we set this record against the relentless portrayal of greed, self-interest and abuse of office which has been presented as the New South Wales Corps' only legacy.'¹⁰⁶ Here Grey sharply contrasts two opposing images of the Corps. But, the building of long term infrastructure in the colony, no matter how worthy, is incidental to an evaluation of the Corps' effectiveness in their primary role of maintaining internal security.

It is debatable, and probably of limited historical significance, whether or not the Corps was worse than, or of a comparable standard with other British regiments. Intangible factors, such as leadership qualities of officers, and reliability of non-commissioned officers, dictate standards in a regiment. Such variables cause fluctuations in the efficiency of a unit from time to time and from place to place. From a consideration of issues raised in Chapters 6 to 11, this author formed the opinion that while the other rank material of the Corps approximated that of many line regiments, the officers, especially the commanders were at fault in how they handled disciplinary lapses by the men. Field Marshall Slim, when summing up battalion problems which paralleled those in the Corps, wrote 'In the British Army, there are no good battalions and no bad battalions, no good regiments and no bad regiments. There are only good and bad officers.'¹⁰⁷

The history of the Corps, re-designated the 102nd Regiment, and billeted in England under a new commander, bears this out. Steel notes that the previously 'chagrined' Lieutenant Colonel Napier, a strict disciplinarian, later referred to the 102nd as 'my gents' and claimed that they 'were as fit to take the field as any regiment in the Army.'¹⁰⁸ Accepting Napier's assessment, fighting efficiency is the

¹⁰⁵ I Lee, *The Coming Of The British*, p.244.

¹⁰⁶ J Grey, *A Military History*, p.12.

¹⁰⁷ ES Turner, *Gallant Gentlemen*, p.unnumbered, following title page.

¹⁰⁸ WA Steel, "Captain Henry Steel", Pt.2', p.74.

yardstick by which the standard of a unit should be assessed and not prior civilian occupations, or length of “crime sheets”, of its soldiers. As a further example of factors which affected the regiment’s standards, RH Montague favourably compared the New South Wales Corps to the 46th (South Devonshire) Regiment of Foot which served in the colony from 1814 to 1817. He noted the relative youth and inexperience of the 46th’s officers and men and lower physical standard of its soldiers compared to those of the Corps.¹⁰⁹ As became evident, after the appointment of a good commanding officer in 1811, the 102nd Regiment proved it could achieve an acceptable standard.

In considering the relative standard of the Corps to other regiments, the authors quoted above have all been guilty of one major omission. Sadly neglected is any reference to discipline and security displayed by detachments of the Corps on convict guard duties in transit to the colony. The question of onboard discipline, especially on convict transports, raises the disturbing question as to the reliability of the Corps to undertake one of its basic security tasks. This is addressed in the next chapter, as is the disruption suffered by the Corps as a result of their mainly arriving in the colony as small detachments, rather than a complete unit.

¹⁰⁹ RH Montague, ‘The Men of the New South Wales Corps: a Comparison?’, *JRAHS*, Vol.62, Pt.4, March 1977, *passim*. The need to consider the sum of many factors, rather than a selected few, was the theme of Brigadier Austin’s ‘Paint My Picture Truly’, *passim*.

Chapter 6

New South Wales Corps En Route to the Colony

In *The Convict Ships 1787-1868*, Bateson paints a disturbing picture of many of the military detachments charged with guarding convicts in transit to the Australian colonies.¹ Of the regiments which provided these detachments, the New South Wales Corps has a particularly unenviable record, even when allowance is made for specific problems which were not faced to the same extent by later British regiments.

When the first guards from the Corps were dispatched in the Second Fleet, the only expertise to guide the Home Office, the Admiralty (and their Transport Commissioners), as well as the War Office, who issued orders to the Corps, was that gained from the former private enterprise transportation to America, and arrangements made, at Phillip's initiative, for the First Fleet. Clear directives and practised procedures lay in the future, primarily in the post Napoleonic Wars period. The Corps had to contend with problems inherent in the developmental stages of any bureaucratic initiative. Additionally, three years after the Second Fleet sailed,² Great Britain became involved in a major war - the Revolutionary War with France - leading to manpower shortages in the armed forces. This adversely affected the Corps, as considered in Chapter 5. Ignoring the question of the relative quality of the New South Wales Corps compared to other regiments, another factor worked to its detriment in regard to its record of providing internal security on convict transports. Namely, the Corps remained significantly longer in the colony,

¹ C Bateson, *The Convict Ships 1787-1868*, Glasgow, 1969, pp.35-36. These comments, in context, refer to the period after the Napoleonic Wars, but were also applicable from after the Third Fleet.

² Sailed 19 January 1790.

and therefore provided more guards on transports, than any other regiment.³ This proportionally increased the likelihood of its members being involved in disturbances during the long sea passage.

In the early days of transportation, with voyages of six months or more, discontent was rife. The deprivation and squalid conditions suffered by the convicts, bred rumours of, or attempts to mutiny. These threats, either real or imagined, were a major concern of for ships' officers and military guards.⁴ Occasionally, this menace to security was compounded by actions of some guard members, who, conspiring with convicts or crew, further heightening tension amongst the remainder of the free people on board.

The role of the New South Wales Corps guard detachments was strictly limited to providing sentries and an armed force to put down any mutiny. As with the First Fleet, the ships' masters were responsible for the physical security of the embarked convicts and determining what security measures should be implemented. Subject to the common law of England, particularly relating to murder or manslaughter, the masters had absolute power over the convicts and could inflict individual punishment, such as flogging or restraining individuals in

³ G Odgers, *Army Australia an Illustrated History*, Frenchs Forest, 1988, p.17. Compared to the Corps' twenty years, the next longest serving British regiment was the 99th Regiment (Wiltshire) which served in the Australian colonies and New Zealand for thirteen years from 1843 to 1856. The 11th (North Devonshire) was next with twelve years (1845-1857) while all other regiments served fewer than ten years.

As a basis of comparison with the 99th Regiment; taken over a thirteen year period, the New South Wales Corps provided thirty guard detachments (calculations shown later in this chapter). During the 99th's thirteen years, a total of 163 convict ships came to Australia. However, the task of providing guard detachments for these transports was shared between the 99th Regiment and eight other regiments whose colonial service overlapped in those years. Additionally, some guard detachments were made up of drafts proceeding to India via the Australian colonies. These drafts for this calculation are regarded as equivalent to another regiment being stationed in the colonies. Therefore, the total of regiments in the country from 1843 to 1856 is considered to be the equivalent of ten. Presuming, probably incorrectly, that all 163 ships carried guards, the average theoretical commitment would be 16.3 guard detachments per regiment, which is roughly half the actual number of guards supplied by the New South Wales Corps over a similar period.

⁴ C Bateson, *Convict Ships*, pp.217-218, makes the same point in relation to the period 1821-1840.

various weights of chains for indefinite periods.⁵ Demarcation disputes resulted when a master's concept of security came into conflict with the military guards' responsibility to enforce that security, with both parties protecting their "rights". A long account of conflicting interest between the Corps' officers and the master of *Neptune*, before the Second Fleet departed from England, is given by Surgeon Harris of the New South Wales Corps. The crux of the problem being illustrated in this quotation:-

Cap'n Nepean [the Corps' senior officer, returned] on aboard ... [and] said he had determined to take charge of the convicts, as Cap'n Gilbert [the master] had usurp'd too much power over him and his soldiers without right, and that he had not hitherto obey'd Major Grose's orders, who had desir'd him to turn the convicts up and down at will, as all the officers in the last ships [marine officers of the First Fleet] had done the same.⁶

On the other hand, the master of *Neptune* was equally jealous of his position. For example, when the other Corps officers were ashore, Surgeon Harris was called by a sergeant to:-

quell a riot amongst the women [and was forced to have one placed in irons, then] ... Cap'n Gilbert ... hollow'd down the hatchway several vulgar phrases ... [and] he said ... who gave me [Harris] authority to command in his ship! I told him I assumed no command either in the ship or corps; that I was now obeying my [absent] officer's directions, and let me see who would hinder me⁷

During this altercation with Harris, Captain Gilbert manhandled a sentry who responded by threatening to bayonet him. Gilbert and three naval lieutenants, with whom he had been drinking, collected and opened an arms chest and 'Mr. Gilbert then ordered twelve or fourteen musketts [sic] to be loaded and carried into his cabbins [sic] which was done'. About midnight, Nepean⁸ returned to *Neptune*, and as he 'did not think himself safe ... took possession of all the loaded arms'.⁹

Next morning, Nepean sent Harris ashore to report the incident to Nepean's brother, Evan, the Home Office Under Secretary, who was staying at Bath. As a result Gilbert was dismissed from command of the ship.

⁵ C Bateson, *Convict Ships*, p.19. This situation prevailed until the end of the Napoleonic Wars. After which, naval surgeons became available and were employed as surgeon-superintendents. This led to the 'effective supervision' of ships' masters.

⁶ *HRNSW*, 2, p.428. Surgeon Harris of November 1789.

⁷ *HRNSW*, 2, p.430.

⁸ Accompanied by Lieutenant Macarthur and his wife, who were also travelling on *Neptune*.

⁹ *HRNSW*, 2, p.431.

This altercation varied from the normal relationship that existed between the master and guard commander. On *Neptune*, this was not a one sided argument as Gilbert and Nepean were both experienced men, on a comparable level in their respective professions, and like Harris, were determined to hold their ground. The incident was especially unusual as the army officers had the opportunity to go ashore, and using their influential contact, Evan Nepean, have the ship's master dismissed. This differed from the normal pattern, as guard commanders were usually young ensigns, on posting to the colony as reinforcement officers, or less frequently, sergeants. It was hard for them to confront an autocratic master supported by his ship's officers. Once at sea, a guard commander was isolated from all superior authorities, and without support in any argument over what he perceived to be his duties and responsibilities. A guard commander had limited opportunities to influence security decisions concerning the handling, or mishandling, of the embarked convicts.

As well as contending with the ship's master and his officers, a guard commander had to endeavour to work in cooperation with the ship's surgeon, and if carried aboard, the naval agent who was a commissioned officer of the Royal Navy. Should a division of ships for which the naval agent was responsible become separated at sea, the agent could only attempt to influence the actions of the master of the ship in which he sailed. Naval agents' duties included diverse tasks such as preventing unnecessary delays on passage and reporting on any failure of the ships' officers to provide the contracted scale of rations to soldiers, their families and convicts. The naval agent could advise and report on, but not issue commands to the master.¹⁰ An agent's effectiveness was limited by his ill defined powers. This is illustrated by a report to Governor Phillip, by the agent aboard *Kitty*, Lieutenant Woodruff. He complained of inordinate delays at transit ports, and in fair weather when he requested more sail be set, the master abused Woodruff saying 'he never would make more sail on the ship for my [Woodruff] requesting

¹⁰ *HRNSW*, 1, Pt.2, pp.678-679. Nepean to Surgeon Kent of December 1792, detailing his duties as *Boddingtons'* superintendent.

it'.¹¹

In 1792-1793, following many convict deaths in the Second Fleet, Royal Navy surgeons, under the title of 'superintendents', were assigned the additional duties of naval agents.¹² Now, as well as their responsibilities for the convicts' health, these medical officers were expected to ensure that the terms of the government contract, negotiated by the Transport Commissioners, were followed. These officials faced problems as noted by Naval Surgeon Kent who criticised *Boddingtons'* master, Captain Chalmers. Kent wrote 'for the cleanliness and comfort of the convicts ... my orders ... were never attended to, and even Captain Chalmers told me he only came in the ship to navigate her.'¹³ Due to the shortage of naval surgeons and officers during the French Revolutionary and Napoleonic Wars, this sensible scheme only operated on the transports *Royal Admiral* and *Bellona* in 1792, and on *Boddingtons* and *Sugar Cane* in 1793.¹⁴ However, from 1815, naval surgeons appointed as 'surgeon-superintendents', were carried on all convict transports, with increased supervisory powers over the ships' masters.¹⁵

During the wars, civilian surgeons, normally hired by the shipping contractors, operated without any official supervision and could be expected to defer to the master, who was the senior representative of their mutual employer. A surgeon who insisted on maintaining a reasonable standard of hygiene and rationing for convicts, would have been an irritant to many masters. Some captains had no interest in regularly inspecting and ordering the cleansing of the foul prison area or ensuring provision of adequate meals. Through carelessness, or deliberate

¹¹ HRNSW, 2, p.483; report of November 1792.

¹² C Bateson, *Convict Ships*, p.43.

¹³ HRNSW, 2, p.61. Kent unaddressed report of September 1793. Footnote, p.61 states 'probably to Nepean'.

¹⁴ C Bateson, *Convict Ships*, p.35. *Bellona* was a storeship, which also carried seventeen female convicts (p.146). There is no record of her having carried a guard (*passim*).

¹⁵ C Bateson, *Convict Ships*, pp.18-19 for background detail and p.35 for scheme recommencing in 1814. The date 1815 (not 1814) is included in the text as Naval Surgeon Arnold was the first to sail in *Northampton* in January 1815 (p.49). Bateson considered that identical reforms to those recommended by Dr. Redfern in his report to Macquarie, were introduced in 1814 before the Redfern Report reached England (p.49).

short weight issues on some ships, food was often inadequate.¹⁶ A particular irritant to the master could occur if a company appointed surgeon insisted on convicts spending adequate exercise periods on deck - conflicting with the master's over-riding concern for security. Another responsibility of the surgeon was, when a prisoner was flogged, to stop the punishment if the victim's life was at risk. This did not always happen. The sadistic master of *Britannia*, which reached Port Jackson in May 1797, said to a man being flogged 'I will not hang you, it is too gentle a death, but I will cut you to pieces'. The convict, who was dead next day after having been chained to another man overnight, was not given medical treatment. The ship's doctor, who had made no attempt to stop the flogging, recorded that the convict died of natural causes.¹⁷

Working within this maritime command structure, with overlapping areas of responsibility (or apathy) involving the master, surgeon and naval agent, the military detachment commander, whose sole responsibility was to guard the prisoners, had little incentive, or scope, to show initiative in handling convict security. Bateson notes that no attempt was made by the Navy Board or Transport Commissioners to settle the respective spheres of responsibility, and inevitably there were sharp and sometimes violent differences of opinion.¹⁸ This explains why Captain Hill of the New South Wales Corps could do nothing to alleviate conditions for convicts on *Surprise*. He wrote:-

The irons used upon these unhappy wretches were barbarous. The contractors had been in the Guinea [slave] trade, and had put on board the same shackles used by them in that trade ... The slave trade is merciful compared with what I have seen in this fleet¹⁹

Hill is referring here to the Second Fleet, comprising *Surprise*, *Neptune* and *Scarborough*.

The first guard detachments of the New South Wales Corps departed England on 19 January 1790 aboard the Second Fleet. Thereafter, until 1802, the

¹⁶ Ships' masters found a ready market in Sydney Town for foodstuffs fraudulently accumulated.

¹⁷ HRNSW, 3, p.241; pp.240-277 for magisterial enquiry conducted in Sydney.

¹⁸ C Bateson, *Convict Ships*, p.26.

¹⁹ HRNSW 1, Pt.2, p.367. Private letter from Hill of July 1790.

Corps built up strength as further detachments reached the colony. Then, following the Peace of Amiens, there was a decline in numbers due to a reduction ordered in establishments of all infantry regiments.²⁰ From 1804, while some guard detachments did arrive as reinforcements, the strength of the Corps remained relatively static until 1808.²¹ Then, under the stimulus of the spread of the Napoleonic Wars, the strength of the unit was increased by a large draft of 225 all ranks.²² This chapter considers the thirteen year period from the sailing of the Second Fleet until the Peace of Amiens, concluding with HMS *Glatton* reaching the colony in March 1803 with peacetime orders to embark redundant soldiers for return to England. In this period, forty-six convict transports and storeships departed from England or Ireland with one or more convicts on board. Due to a successful mutiny on *Lady Shore*, only forty-five transports reached Sydney Cove. As detailed below not all these vessels carried military guard detachments. Additionally, neither HMS *Guardian* nor *Lady Juliana* carried a military guard, so are not included in this total. These two ships sailed before the New South Wales Corps assumed responsibility for guard detachments, which commenced with the Second Fleet. *Guardian* departed in September 1789 with stores and twenty five skilled prisoners. After hitting an iceberg, she was later driven ashore and wrecked in False Bay to the east of Cape of Good Hope. *Lady Juliana*, with stores and female convicts left England almost six months before the Second Fleet sailed.²³

To establish the number of convict ships for which the New South Wales Corps provided guard detachments, transports are divided into categories as tabulated below:-

²⁰ HRNSW, 4, p.832. Bathurst to King of August 1802.

²¹ P Statham, 'Ins and Outs: The Composition and Disposal of the NSW Corps 1790-1810', *Working Papers in Economic History*, Working Paper No.105, May 1988, Table 2, p.6, listed strengths as follows:- 1804 - 563, 1805 - 579, 1806 - 578, 1807 - 596 and 1808 - 601 prior to the arrival of a draft of 225 (see Statham's Table 6, p.11).

²² AJCP, reel 1073, *Out Letters Secretary-at-War New South Wales Corps, 1803-1810*, WO 4/846, p.44. For War Office directive of 3 October 1806 that with effect from 25 December 1806, the New South Wales Corps would be augmented to a strength of eight companies each of 100 rank and file.

²³ Despite this early departure, *Lady Juliana* did not arrive until 6 June 1790, the same month in which the ships of Second Fleet arrived in Sydney Cove.

His Majesty's Ships (total 2): *Gorgon* - troop carrier, storeship, limited (31) male convicts²⁴ and *Glatton* - convict transport (401 male and female convicts). Despite the number of convicts, it is discounted that *Glatton* carried a New South Wales Corps guard as she was under orders to return with the Corps' redundant soldiers. The ship's normal complement of marines presumably acted as guards.

Storeships carrying convicts with no military guards (total 3): *Bellona* (17 female convicts), *William* and *Sovereign* (each one convict). Other storeships which did not carry convicts are outside this study.²⁵

Transports carrying military guards (total 28): *Surprise*, *Neptune*, *Scarborough*, *Matilda*, *Atlantic*, *Salamander*, *William and Mary*, *Active*, *Queen*, *Albermarle*, *Britannia* (1791), *Admiral Barrington*, *Pitt*, *Royal Admiral* (1792), *Boddingtons*, *Sugar Cane*, *Surprise* (1794), *Marquis Cornwallis*, *Britannia* (1796), *Ganges*, *Barwell*, *Minerva*, *Royal Admiral* (1800), *Earl Cornwallis*, *Canada*,²⁶ *Minorca*, *Hercules* and *Atlas* (1801).

Transports carrying hired civilian guards (total 6): *Hillsborough*,²⁷

²⁴ AJCP, reel 1164, *Admiralty - Entry Books General 1784-1793*, HO 29/2, p.149. In a letter of 7 February 1791, Captain Parker, commanding *Gorgon*, requested that thirty named convicts from the *Lyon Hulk*, Portsmouth, be 'furnish[ed] him to take on board the *Gorgon* to assist in working the Ship on her Passage to New South Wales'. If these convicts returned to England, still as part of the crew, which would appear logical, then Bateson may not be strictly correct in listing *Gorgon* amongst *The Convict Ships*.

²⁵ Examples of storeships, not carrying convicts are *Prince of Wales* and *Sylph* (refer HRNSW 3, p.56, both sailed from Portsmouth, 27 June 1796, footnote p.52 for arrival dates). From AJCP, reel 1302, *Description and Succession Books (Regimental) New South Wales Corps 1808-1816*, WO 25/642, at least one soldier was listed as travelling to the colony on *Prince of Wales*, arriving in November 1796, therefore that ship or possibly both carried some reinforcements with no guard duties.

²⁶ *Canada* is listed by Bateson and confirmed by HRNSW, 4, Index, p.1063 (six entries). She arrived at Sydney in December 1801 in company with *Minorca* and *Nile*. The latter carried female convicts only and no military guard, and is excluded from further consideration in this footnote. Both *Minorca* and *Canada* embarked 104 male prisoners each at Portsmouth and sailed on the same date. Entries, indicating a military guard on *Minorca* are recorded in WO 25/642 while there are none for *Canada*. Surprisingly in WO 25/642, there is a significant number of entries listing a ship named *Kennedy* which supposedly arrived in Sydney in December 1801. There is no record of a vessel of that name in Bateson, HRNSW (Vol.4) nor HRA 1 (Vol.3), and no other convict transports entered Sydney Cove in December 1801. The only conclusion that can be drawn is that *Kennedy* was an alternative name used for *Canada* by the military authorities in Sydney who compiled the Description Book in 1808. As a slight possibility, *Kennedy* may have been renamed, and as *Canada*, made 'three successive voyages' to the colony (C Bateson, *Convict Ships*, p.173).

²⁷ HRNSW 4, p. 92 confirms that *Hillsborough* carried civilian guards.

Friendship, *Anne* (*Luz St. Anna*)²⁸, *Coromandel*, *Perseus*,²⁹ and *Atlas* (1802, different ship to 1801).³⁰

Transports carrying female convicts (total 7): *Mary Ann*, *Kitty*,³¹ *Indispensable*, *Lady Shore* (plus one or two male convicts), *Britannia* (1798, different vessel to those which sailed in 1791 and 1796), *Speedy* and *Nile*. Apart from *Lady Shore*, which was also employed as a troop carrier, no military guards were carried on these vessels.³²

In summary, the New South Wales Corps provided guards for a total of 30 ships between 1790 and 1830.³³

- HMS *Gorgon* (as the 31 convicts worked as part of the crew, guard duties for the Corps' twenty-four all ranks³⁴ would have been nominal),
- 28 transports carrying male or male and female convicts,
- *Lady Shore*, employed as a troop carrier, as well as transporting female convicts.

²⁸ There is doubt whether *Friendship* and/or *Anne* carried a military guard. In WO 25/642, no soldiers are listed as having sailed on either ship (one soldier is recorded as arriving on the First Fleet's *Friendship*). C Bateson, *Convict Ships*, p.178, notes that 'there was no military guard' on *Anne* and that the ship's officers and crew efficiently overcame a mutiny. However, HRNSW 3, p.640 quotes a Transport Commissioners' letter of 6 March 1799 that 'Friendship and Lux St. Anna [*Anne*'s name at the time of her capture by the English] ... we conceive it will be more safe that a guard should be furnished ... by the War Department ... [of] twenty rank and file ... for each ship'. While both *Friendship* and *Anne* sailed from Cork, as *Anne* sailed ten months later, whether a guard may, or may not, have been placed on *Friendship* apparently did not prevent *Anne* embarking hired civilian guards. On the basis of negative evidence from WO 25/642, *Friendship* is listed under the hired guards category.

²⁹ C Bateson, *Convict Ships*, p.27, for *Coromandel* and *Perseus* carrying civilian guards.

³⁰ The Peace of Amiens was signed on 27 March 1802, and *Atlas* (1802) sailed on the 30 May. She sailed before HMS *Glatton*, whose captain was under orders to return with redundant troops to England. Therefore, it is highly unlikely that the *Atlas* carried military guards as the Transport Office would have had to pay for rations for the outward bound troops and passage money for their homeward voyage, whereas the civilian guards' contract ceased on 'the Day of their [the convicts] final Debarkation at New South Wales' (refer: AJCP, reel 4400, *Admiralty out letters to Navy Board, Pay, War Office, Home Office, Colonial Office*, ADM 108/20, p.46. Also part of this same series, referred to later, are ADM 108/17 and 108/19. That *Atlas* did not carry military guards is negatively confirmed as that ship's name does not appear in WO 25/642.

³¹ *Kitty* embarked ten male and thirty female convicts at Portsmouth. Apparently the naval Transport Office considered that a military guard was not warranted for these numbers. The escape of eight male convicts, when the ship put back to England for repairs, tends to confirm that no military guard was embarked. WO 25/642 adds strength to this assumption as no soldiers are listed as arriving on *Kitty*. D Collins, *An Account of the English Colony in New South Wales*, Christchurch, undated, p.162, made reference to only a naval agent and 'medical gentleman' being carried aboard.

³² As transports carrying female convicts (including *Lady Juliana* and the storeship *Bellona*, not listed in this category) did not carry a guard detachment, consideration whether military discipline was weakened on such vessels is not pertinent. The case of *Lady Shore* is atypical, being also employed as a troop transport, see below, Chapter 7. It is presumed that where a transport carried male and female convicts there would have been increased disciplinary problems amongst the soldiers and crew.

³³ See above, footnote 3, for a comparison with the 99th Regiment which also provided guards over a thirteen year period.

³⁴ HRNSW 1, Pt.2, p.432, for details. As Grose sailed later in *Pitt*, the numbers given have been reduced by 'Major - 1'.

Before considering problems associated with merchant marine vessels employed as convict transports, incidents of inter-service disharmony aboard HMS *Gorgon* at Portsmouth are examined, as these resulted in accusations of mutiny being made against soldiers. The first recorded instance of discontent was in November 1790, ten months after the Second Fleet had sailed. Accompanied by his family, Major Grose had initially been directed to travel in *Gorgon*. He complained that his officers were forced to mess separately from the naval officers, without being allocated adequate cabin space to do so. Additionally, because the navy retained the ship's cabins, he was allotted sub-standard accommodation. He noted 'I am the first officer of my rank ... who was ever turned into the gun-room [where the midshipmen messed] of a ship ... transporting troops.'³⁵ Obviously Grose and the ship's captain, W Harvey, were at loggerheads and such sentiments would have percolated downwards and influenced both the soldiers and crew.

On 19 December 1790, Grose advised the War Office that Harvey had reported to the Admiralty that some of the New South Wales Corps soldiers aboard *Gorgon* had mutinied. Grose stated these were 'frivolous' hearsay allegations.³⁶ The trouble commenced with a drunken fight between two soldiers from the Savoy, resulting in the naval officer of the watch placing them in irons.³⁷ Next morning, the Corps' cook was also placed in irons as a result of strong words being exchanged with a petty officer, who had been refused hot water from the soldiers' copper. With their army officers ashore, the soldiers felt aggrieved that their comrades had been punished by naval officers, and showing that they were 'injured by the confinement of their cook' they refused to 'volunteer' in assisting to weigh anchor. Which of these incidents caused Harvey to raise an allegation of mutiny is not known, as pertinent naval correspondence has not been located. Grose's letters

³⁵ HRNSW, 1, Pt.2, p.416. Grose to Nepean of November 1790. This is the probable explanation why Grose came out in *Pitt* which sailed four months after *Gorgon*.

³⁶ HRNSW, 1, Pt.2, p.420. Grose to Under Secretary Lewis. Two days later, Grose followed this up with a more detailed account of the incident (pp.420-421). The quotations are from both letters. No naval accounts of these disturbances are published in HRNSW or HRA, nor has any been noted in microfilm copies of AJCP, PRO Admiralty correspondence.

³⁷ See above, Chapter 5, p.117, footnote 83, for description of Savoy.

to the War Office were clearly intended to protect the reputation of his unit and no doubt Harvey's correspondence with the Admiralty was of a similar nature. As an immediate aftermath, Harvey was relieved of his command and told Banks 'I can only account for it that the Major-Commandant and I have disagreed.'³⁸

In retrospect, the underlying problem in this series of episodes was the lack of discipline amongst the detachment's soldiers. Even before the troops were sent aboard, doubts had been officially expressed about this draft. Nepean, at the Home Office, wrote to the Admiralty in January 1791:-

A considerable part of the Corps intended for Service in New South Wales being composed of Deserters from different Regiments taken out of the Savoy, who would in all probability during their March from Chatham to Portsmouth, desert, it will be very desirable that the *Gorgon* should be brought round to Nore, to receive that Corps on board.³⁹

Taken directly from prison to *Gorgon*, these men would then be constrained by severe naval discipline, pending the ship's departure for the colony. While soldiers were the focus of inter service correspondence aboard *Gorgon*, Captain Parker, who relieved Harvey, also had a naval disciplinary problem with his crew. For fear of desertions, he warned the Admiralty, in late February 1791, that 'the sooner we are gone the better'.⁴⁰ No doubt the soldiers cooped up aboard agreed with such a sentiment, facing the prospect of a sea passage of about six months to reach the colony, as had the notorious Second Fleet which was at sea from January to June 1790.

³⁸ HRNSW, 1, Pt.2, p.427. Harvey to Banks of January 1791. Harvey was replaced by Captain Parker.

³⁹ HO 29/2, p.125. Nepean to Admiralty Under Secretary Stephens of 10 January 1791. The original intention in September 1789, was that 241 all ranks were to be dispatched to the colony in 'one of the 44-gun ships' (for which task *Gorgon* was nominated), HRNSW, 1, Pt. 2, p.266. Nepean's letter indicated that the intention in early January 1791 was to embark a large detachment on *Gorgon*. This is in conflict with the twenty four all ranks (with Grose excluded) shown as 'On board the *Gorgon*' on the parade state supplied by Grose to Nepean of January 1791, HRNSW, 1, Pt.2, p.432. This discrepancy is explainable as eight convict transports (*Matilda*, *Atlantic*, *Salamander*, *William and Mary*, *Active*, *Albermarle*, *Britannia* and *Admiral Barrington*), with guard detachments, departed from Plymouth or Portsmouth in March 1791, the same month that *Gorgon* sailed. *Queen*, also with a guard, sailing the following month from Cork. With an average strength guard of an officer and twenty other ranks, these nine transports would have required a total commitment for the Corps of approximately 189 all ranks.

⁴⁰ HRNSW, 1, Pt.2, p.465. Parker to Stephens of February 1791. *Gorgon* sailed on 15 March and arrived Port Jackson on 21 September 1791.

The high death rate on the three ships of the Second Fleet, was in part attributed by Phillip to security precautions adopted by ships' masters; he informed London:-

while the masters of the transports think their own safety depends on admitting few convicts on deck at a time, and most of them with irons on, which prevent any kind of exercise, numbers must always perish on so long a voyage⁴¹

This inhumane treatment nevertheless, so restricted the convicts ability to carry out any mutinous actions, that only on *Scarborough* were the authorities required to take suppressive measures. After the ship had parted company with *Neptune* and *Surprize*, a convict informer, Samuel Burt (who by letter from Cape Town sent a vivid report of this incident to England⁴²), gave warning of a plot to seize the ship. Although the ringleaders were not drastically punished, the convicts' access to the deck was further restricted and as a result they had no opportunity to cause trouble for the remainder of the voyage. Collins in his account of the horrific condition of the landed convicts, only gives this planned mutiny a passing mention.⁴³

Of the eleven convict transports, known as the Third Fleet, which reached Port Jackson in 1791⁴⁴, Collins noted that the sergeant commanding the guard on *Salamander* had 'shown his preference to remaining in England, by deserting when the ship was on the point of sailing'.⁴⁵ Neither Collins nor *Historical Records of Australia* or *Historical Records of New South Wales* makes mention of a separate incident recorded by Bateson, that the master of *William and Ann* was 'fined for assaulting and beating some soldiers during the passage'.⁴⁶ This reference indicates that there had been tension between members of the guard of

⁴¹ HRA, 1, 1, p.188, Phillip to Grenville of July 1790. C Bateson, *Convict Ships*, p.127 lists deaths as:- *Surprize* - 36, *Neptune* - 147 and *Scarborough* - 73. The physical condition of most disembarked convicts was extremely poor.

⁴² HRNSW, 2, p.762.

⁴³ D Collins, *An Account*, p.89.

⁴⁴ Ten of these ships, including *Gorgon* are listed in footnote 39, above. The other was *Mary Ann* with female convicts and without a guard.

⁴⁵ D Collins, *An Account*, p.124.

⁴⁶ C Bateson, *Convict Ships*, p.133.

'one sergeant and twelve privates' and the master and possibly some of his crew.⁴⁷

The ease with which such an incident can happen was illustrated by the altercation on *Neptune*, between Gilbert and Harris, when a sentry was manhandled. Tension on another ship was recorded by Commander King,⁴⁸ a passenger on *Gorgon*. He was informed that 'The convicts, as well as soldiers, have been troublesome on board the *Britannia*, by the master's account.'⁴⁹ Despite these relatively minor occurrences involving Corps soldiers, in the one serious attempt to seize a ship of the Third Fleet, the Corps' guard performed creditably.

On 9 April 1791, due to bad weather, *Albermarle*, with the division's naval agent, Lieutenant Robert Young RN aboard, became separated from other transports in her division. At 7.30am, assisted by knives or saws supplied by two sailors, Hayes and Bennet, the convicts on deck had, unobserved, removed their irons. They rushed, overpowered and seized the cutlasses of the two New South Wales Corps sentries on deck duty. A convict, William Siney, led a charge onto the quarter deck and was about to strike down the helmsman when either the ship's master, George Brown, or the naval agent (both in different accounts either claimed or were given the credit) fired a blunderbuss which wounded Siney in the shoulder. He dropped the cutlass and fled below, together with the other convicts on deck. An armed party of crew and soldiers went below and methodically secured the hiding conspirators. The first one brought up on deck, terrified by the threat of hanging and encouraged by a promise of pardon, confessed that the plan was to seize the ship and sail to America. He named Siney and Owen Lyons (one of whom was an American) as ringleaders. With no other transport in sight, which could come to *Albermarle*'s aid if mutiny flared up again, it was mutually agreed by the master, ship's officers, naval agent, sergeant guard commander and his corporal, that the ringleaders should be hanged from a yard-arm. Siney and Lyons were both executed, while other mutineers were flogged. Thereafter, no further

⁴⁷ D Collins, *An Account*, p.124.

⁴⁸ King, having delivered Phillip's dispatches to London, was promoted to commander, and was returning to the colony to take up his new appointment as lieutenant-governor of Norfolk Island.

⁴⁹ *HRNSW*, 1, Pt.2, p.489. King to Nepean of May 1791. D Collins, *An Account*, p.129, for report of *Britannia*'s arrival, but did not mention the size of the guard, nor any trouble on board.

trouble by the convicts was experienced. Informers later wrote to the master naming the two sailors, Hayes and Bennet as implicated in the plot. They were secured, and later put ashore at Madeira in custody, awaiting their return to England in a British warship.⁵⁰

Of the four convict transports which arrived in 1792 and 1793 with New South Wales guard detachments, there were reports of mutiny from three; *Royal Admiral*, *Boddingtons* and *Sugar Cane*.⁵¹ There were no reports of trouble on *Pitt* which carried Grose, and who, from Rio de Janeiro, reported that the 'convicts behave themselves with great regularity'. With a total of eighty officers and men of the New South Wales Corps embarked, it would be surprising if they did otherwise.⁵² A newspaper report published in January 1792 also noted the convicts' good behaviour and added 'several were permitted to assist in the navigation of the ship and to attend the watering-parties in landing without their fetters'.⁵³ This may have been an example of making a virtue out of a necessity as Bateson notes that, due to a high death rate, the 'crew was so depleted ... some of the convicts had to ... help navigate her'.⁵⁴ Likewise, the deaths of nineteen of their comrades and dependents during the voyage would have lowered the remaining

⁵⁰ This account is an amalgam of several contemporary official reports and press articles. Material in *HRA*, 1, 1, p.313 and *Commentary Note* 175, p.758, is duplicated in *HRNSW*, 1, Pt.2, p.559 and pp.487-488 respectively. These contain Phillip's dispatch giving a brief report of the mutiny and Young's official report in which he claims he shot Siney. Many details incorporated in the above narrative are obtained from *HRNSW* 2, pp.447-449, being a British consular report from Madeira, of May 1791 (which noted that Brown fired at Siney), and p.781, extract from a private letter published in the press in July 1791, that noted one of the ringleaders was an American. D Collins, *An Account*, p.129, recorded information on the mutiny, but this was not as detailed as the material in *HRNSW*, 2. Collins noted that Brown fired the shot, although Phillip, in his dispatch, which praised Young (*HRNSW*, 1, Pt.2, p. 559) does not make clear whether Young fired or not.

⁵¹ C Bateson, *Convict Ships*, p.139 for 1792 arrivals; *Pitt*, *Royal Admiral* and *Kitty*, and p.145 for 1793 arrivals; *Bellona*, *Boddingtons* and *Sugar Cane*. *Kitty* and *Bellona* did not carry guards. There were desertions from *Kitty* before she finally departed from English waters, see above, footnote 31.

⁵² *HRNSW*, 1, Pt. 2, p.526. Grose to Nepean of October 1791, with an attachment giving the Corps' strength aboard *Pitt* at that date, as sixty-seven all ranks, plus seventeen wives and children. These figures take into account nineteen deaths of military and family. *Pitt* also embarked 410 male and female convicts, illustrating the crowded conditions experienced aboard transports.

⁵³ *HRNSW*, 2, p.792. From *The Bee* of 15 May 1792. Presumably this report was sent from Cape Town after *Pitt* arrived on 25 November 1791 (p.459). She did not reach Port Jackson until 14 February 1792.

⁵⁴ C Bateson, *Convict Ships*, p.141.

troops' morale. When statistics like this became known in the Corps' barracks in England, it would have had an adverse impact on discipline, possibly encouraging desertions before embarkation. The possibility of death, or danger at sea would have had an impact on both soldiers and convicts alike. One soldier of the New South Wales Corps aboard *Pitt*, when passing Land's End, 'bade adieu to our native country'. Then, commenting on his first sight of Australia wrote, 'on 7th of February, 1792, we passed the South Cape of Van Diemen's Land. I looked very anxiously at a continent on which I was likely to spend the prime of my life'.⁵⁵ While this soldier expressed an anxiety about an indefinite future in the colony, the greater apprehension of the convicts, and an urge by some to escape their fate by mutiny, is not surprising.

Of the three ships which arrived in 1792-1793, the seriousness of reported mutinies varied considerably. There was little to substantiate suggestions of a serious plot on *Royal Admiral*. Neither Collins, the *Historical Records of Australia* nor *Historical Records of New South Wales* reported such an incident. The only evidence is of a negative nature, being a convict's letter written at Cape Town stating that a Jewish convict who had suffered 'continual taunts, and, not having any mode of revenge, informed ... there had been a plan concerted on board the hulks'. As a result 'eight men intirely [sic] innocent of that crime suffered a very severe punishment, but in a very short time he [the Jew] was detected ... [and] underwent a discipline in itself very severe'.⁵⁶ Regarding this incident Bateson notes that one convict received three dozen lashes and seven others two dozen each.⁵⁷

Trouble with guard detachments developed early on the transports *Boddingtons* and *Sugar Cane*. For *Sugar Cane*, this commenced at Gravesend, in the lower reaches of the Thames, before proceeding to Ireland, to embark convicts at Cork. The master, Captain Musgrave, was gravely concerned about the reliability

⁵⁵ *HRNSW*, 2, pp.815-816.

⁵⁶ *HRNSW*, 2, p.479 and footnote.

⁵⁷ C Bateson, *Convict Ships*, p.143.

and health of the Corps' soldiers aboard his ship. It was bad enough that the War Office advised him that Stanton, a soldier of 'very infamous character ... [who] should be kept entirely apart [from convicts, and] ... might be productive of much mischief', was to be transferred to his ship.⁵⁸ But Musgrave's greater concern, was a complaint that the guard were unfit for service. As a result of this, the adjutant and assistant surgeon of nearby Chatham Barracks were ordered to examine the soldiers. In the presence of Surgeon Superintendent Bell of *Sugar Cane*,⁵⁹ the army surgeon ruled that 'the men he [Musgrave] objected to' were fit.⁶⁰ Next day, Musgrave wrote to Nepean:-

how utterly impossible it will be for me and my ship's company to keep both soldiers and convicts in subjection. ... [The soldiers] were sent on board to assist me in keeping the convicts in order ... notwithstanding the survey [Chatham army inspection], or rather cursory view that was taken, that numbers of the recruits are unfit to proceed on the voyage - indeed, two ... are already in so bad a state that they are incapable of doing anything.⁶¹

As a result of France's declaration of war against the United Kingdom on 1 February 1793,⁶² shipping movements along the southern coast of England were constrained by the threat of French privateers. In February, *Sugar Cane* had to wait at transit ports until convoys were assembled, to proceed along the coast from port to port. Additionally, she was raided by naval press gangs who 'took the whole of our foremast men'.⁶³ Some days later, after having left Gravesend, Musgrave advised Nepean of a soldier he had placed in irons because the man 'threaten'd the life of my chief officer'. Musgrave queried what punishment he could inflict 'as an example for the rest of the men'. This was a strange request to the Home Office on a military disciplinary matter, even though Musgrave's real

⁵⁸ HRNSW, 2, p.8. Commandant, Chatham Barracks to Mulgrave of February 1793.

⁵⁹ HRNSW, 2, p.7. The Commandant, Chatham Barracks wrote that 'Mr. Kent [superintendent of *Boddingtons*] attended the above inspection'. The commandant was obviously confused over the surgeons' names "Bell" and "Kent", as two days before the commandant's letter, Kent (pp.6-7) had written a report to Nepean from Cork.

⁶⁰ HRNSW, 2, pp.7-8. Under Secretary, War Office (Lewis) to Under Secretary, Home Office (Nepean) of 9 February 1793.

⁶¹ HRNSW, 2, p.8. Musgrave to Nepean of 10 February 1793.

⁶² As a reaction to the execution of Louis XVI on 21 January, Britain expelled France's ambassador. In response, France declared war.

⁶³ HRNSW, 2, pp.16-17. Surgeon-Superintendent Bell to Nepean of February 1793.

intention was apparently to have that soldier and another removed from his ship.⁶⁴ The sergeant guard commander⁶⁵ apparently had little control over his men. With no legal power to order a flogging, when the ship moored at either Portsmouth or Plymouth, the sergeant should have reported the incident at one of these military headquarters, where the soldier could have been severely disciplined. At Plymouth, trouble with the guard continued, with four soldiers deserting by stealing the ship's boat. In reporting this latest incident to Nepean, Musgrave was 'rather astonished' that he had received no reply from Nepean as to what disciplinary measures 'I am to proceed with the soldiers'.⁶⁶ At the same time as Musgrave was experiencing problems with his ship's guard, Surgeon-Superintendent Kent aboard *Boddingtons*, at Cork, reported to Nepean that a 'soldier has deserted since our arrival here ... [and] are a very troublesome sett [sic], and require more looking after than the convicts'.⁶⁷

After arrival at Port Jackson, Surgeon Kent reported that on *Boddingtons*:-

We had constant alarms with mutinys and conspiracys, both among the soldiers as well as convicts, and we was obliged to be upon our guard night and day; but, by the officers keeping a strict watch, had the look [luck] of bringing them all safe [to the colony]⁶⁸

Collins, referring to this voyage wrote 'The Irish convicts had attempted to take the ship; but their design had been frustrated by the vigilance and activity of the master and a subaltern's party of the New South Wales corps.'⁶⁹ Details of the plot, or plots, were revealed after the convicts were landed. It had been planned to put to death all officers except 'the first mate and the agent ... for the purpose of conducting the ship to a port, where they were likewise to be put to death.'⁷⁰

Sugar Cane arrived in September 1793, five weeks after *Boddingtons*, also

⁶⁴ HRNSW, 2, pp.8-9. Undated, presumed 'written about the middle of February, 1793', footnote p.8.

⁶⁵ D Collins, *An Account*, p.191, referred to 'a subaltern's [guard] party on *Boddingtons*, and p.194, 'a sergeant's party' on *Sugar Cane*.

⁶⁶ HRNSW, 2, p.17. Dated 25 February 1793.

⁶⁷ HRNSW, 2, p.7. Dated 6 February 1793.

⁶⁸ HRNSW, 2, p.61 and footnote. Addressed 'probably, to Nepean' in September 1793.

⁶⁹ D Collins, *An Account*, p.191. Written as lower case 'c' in 'corps'.

⁷⁰ D Collins, *An Account*, p.194.

having experienced a mutiny aboard. She sailed from Cork on 12 April 1793 and an informer advised Surgeon-Superintendent Bell on 25 May that some of the convicts had sawn off some of their irons, and planned to seize the ship, killing the officers except the surgeon and second mate.⁷¹ There was also a 'probability of their [the mutineers] being joined by certain of the sailors and of the guard.'⁷² Bell, presumably working closely with Musgrave, decided that strong action was required 'and ordered that one of the convicts, who was found out of his irons to be executed that night; others were punished next morning'.⁷³ As a result of this swift action, no further problems were experienced during the voyage. Indeed, at Rio de Janeiro, the next port of call, in a letter to Nepean, Bell made no reference to the mutiny or execution.⁷⁴ To Bell's great credit, of the 110 male and fifty female convicts embarked, the only death on the voyage was that of the executed man.⁷⁵

A postscript on security was written by Collins in light of *Boddingtons'* and *Sugar Cane's* passages from Cork. In his opinion;-

the military guard should never have been less than an officer's command, and that guard (especially when embarked ... [on] a ship full of wild lawless Irish) ought never to have been composed of either young soldiers, or deserters from other corps.⁷⁶

While this was self evident to Collins, there is no record that the issue was raised by Major Grose, then administering the government of the colony.⁷⁷ In England, despite concern expressed by the Commissioner of the Navy and Home Office, the War Office, now embroiled in a major war, did not have the manpower resources to improve the standard of guards on *Surprize*, the next transport due to sail after *Sugar Cane*.⁷⁸

⁷¹ C Bateson, *Convict Ships*, p.146.

⁷² D Collins, *An Account*, p.194.

⁷³ D Collins, *An Account*, p.194.

⁷⁴ *HRNSW*, 2, p.57. Dated July 1793.

⁷⁵ C Bateson, *Convict Ships*, table, p.147.

⁷⁶ D Collins, *An Account*, p.194.

⁷⁷ On other occasions Grose had attempted to deflect criticism of the Corps. Therefore, it was unlikely that he would have raised such an issue, based on recriminations against his men.

⁷⁸ *HRNSW*, 2, p.123, for Home Office to War Office, for naval concern, and p.124 from War Office replying that nothing could be done.

Because guards performed satisfactorily on the Second and Third Fleets, with few reported instances of misbehaviour, the reasons why serious problems occurred with guards on *Sugar Cane* and *Boddingtons* requires examination. These guards were aboard these transports before the French Revolutionary War commenced, therefore the argument advanced in Chapter 5, that the standard of soldiers dropped after the start of the war, does not apply to these two ill disciplined guards. Probably the basic cause lay in the limited troop availability in 1791, when virtually all of the 162 officers and men available in barracks in England would have been required as guards for the nine transports, which became the Third Fleet.⁷⁹ Then, to meet the 1792 commitment of guards for four convict transports, recruits would have been urgently needed. Collins' criticism in the previous paragraph, indicates that significant numbers of rejects from other regiments, including military felons, were combined with callow youths to meet these 1792 commitments. This is borne out by War Office orders to Colonel Fox, at Chatham Barracks, that 'the [five] undermentioned Deserters from the Savoy Prison' were to be put on board *Boddingtons*.⁸⁰ The influence of these soldiers on their comrades, would have been conducive to dereliction of duty and mutiny, as was rumoured. Finally, as referred to by Collins, the apparently somewhat ineffectual sergeant guard commander on *Sugar Cane* should have been replaced by an officer to handle the ship's prison full of 'wild lawless Irish'.

Surprise (on her second trip) was the only transport to reach the colony in 1794 with a contingent of convicts. A storeship, *William*, carrying one privileged prisoner, also arrived in that year, but as she carried no guard, is outside the scope of this chapter. *Surprise's* guard consisted of an ensign and twenty-one other ranks including six deserters from various regiments who were transferred aboard

⁷⁹ C Bateson, *Convict Ships*, p.132. The fleet comprised three ships from Plymouth, five from Portsmouth and one, *Queen*, from Cork. This was the first transport which carried Irish convicts to the colony.

⁸⁰ AJCP, reel 1073, *Out Letters Secretary-at-War New South Wales Corps, 1789-1803*, WO 4/845, p.37, dated 31 December 1792. The men's names were: 'John Townsend 1st Dn Gds [1st Dragoon(?) Guards], Owen Davies 11th Lt. Dns [Light Dragoons(?)], Wm Hughes 2nd Foot, Pat. Gill 65 ditto, Jms Watts NSW'. A notation stated the men were 'Transferred to the N.S.W. Corps'.

from the Savoy. One of these was Joseph Draper, 'a mutineer from Quebec', who had been sentenced to be shot for 'an attempt to raise an insurrection'.⁸¹ In a welter of claim and counter claim, extending for over a year after the ship reached Port Jackson, it is hard to determine if a serious mutiny was planned or not, and whether TF Palmer and W Skirving, two of the four "Scottish Martyrs", on board with the privileged status as gentlemen political prisoners, were involved.⁸²

Nevertheless, through informers (one of whom was Draper), the master, Captain Campbell, and agent, Baker (a former marine sergeant of the First Fleet), believed that a 'most diabolical plot ... was laid, and nearly ... put into execution'.⁸³ This was to take place when the convoy, of which *Surprise* was part, separated.

Campbell went aboard the commodore's ship to report this and an investigation was conducted by the master assisted by a lieutenant detailed by the commodore. Independently of the alleged plot instigated by Palmer and Skirving, it is likely that the six soldiers from the Savoy had conspired from the time they were escorted on board. Therefore, it was believable to Campbell when another informer reported that he 'had overheard the [army] deserters, in the Irish language ... [discussing] measures to seize the ship'.⁸⁴ As Campbell was told this only two days before he visited the commodore's ship, this information may have confirmed the plot's reality in Campbell's mind. Although the truth behind this saga has never been established, it illustrates the problems of a transport carrying unreliable troops compounded by fears of a convict mutiny.

Without additional worry over disgruntled soldiers, the convict threat alone was very real to masters, agents and guard commanders. Therefore, the reports of plots on other transports, such as on *Royal Admiral*, on her second trip, and *Hillsborough* or *Anne*, the latter two with hired civilian guards, is not considered unusual. There were good grounds for concern on *Royal Admiral* with 257 male

⁸¹ HRNSW, 2, footnote to p.102, for Quebec mutineer; footnote p.863, for 'an attempt to raise an insurrection in Quebec'; p.875, for a newspaper report of March 1795, that Draper led a 'conspiracy against the life of Prince Edward, in Canada'.

⁸² HRNSW, 2, pp.856-886. This was an involved issue. As there was a perception of mutiny involving soldiers, this aspect only is considered.

⁸³ HRNSW, 2, footnote p.858. For 'diabolical plot', p.860.

⁸⁴ HRNSW, 2, p.859. This was received from the informer on 31 May 1794.

convicts and a guard consisting of only two ensigns, one of whom was William Minchin, and seven other ranks - including Sergeant Thomas Hughes, who was later court martialled in Sydney and sentenced 'To be reduced & 500 lashes [for] Improper Conduct on board of Ship'.⁸⁵ Both Minchin and Hughes were survivors of a successful mutiny on the transport *Lady Shore*, by New South Wales Corps soldiers.⁸⁶ Apart from *Lady Shore*, prior to 1803, there were two other mutinies in which members of the Corps were directly implicated. These were aboard *Marquis Cornwallis*, which arrived in February 1796, and *Barwell* which reached Sydney Cove in May 1798.

Several months before *Marquis Cornwallis* sailed with convicts from Cork, difficulty was experienced in obtaining men to provide the military guard. Eventually 'volunteers from recruits' from Chatham Barracks were drafted to the New South Wales Corps together with two ensigns, J Brabyn and W Moore. These two newly appointed officers had been 'active and steady serjeants in the Foot Guards' before being posted to the Corps' guard detachment.⁸⁷ The First Mate of *Marquis Cornwallis*, later gave evidence to an enquiry at Sydney, that when the detachment came on board at Portsmouth, their escort officer on the march from Chatham, reported that the soldiers 'had been excessively mutinous and troublesome ... that the serjeant [Ellis] had been the most so, and set a very bad example to some of the young soldiers'.⁸⁸ When the ship sailed from Portsmouth, as part of a convoy to Plymouth, the strength of the guard was one sergeant, one corporal and twenty-four privates. The officers joined later.⁸⁹ After the convicts were embarked, one soldier, O'Donnell, received 150 lashes of an 800 lash

⁸⁵ HRA ,1, 3, p.18, for guard and convicts carried. For Sergeant Hughes, refer: AJCP, reel 2723, Judge Advocate General 1796-1825 General Courts Martial - Abroad, WO 90/1, p.14, notation 60. The ship on which Hughes travelled is not shown in this summary of his record. As the court martial took place on 28 November 1800 he could only have been on *Royal Admiral* which arrived 20 November. Only two other transports with guards arrived that year, both of which arrived at Sydney Cove, in February.

⁸⁶ See below, Chapter 7.

⁸⁷ HRNSW, 2, p.299, for 'volunteers' HRNSW emphasis, and p.315 for sergeants from 'Foot Guards'. HRNSW, 3, p.103; for names of the ensigns.

⁸⁸ HRNSW, 3, p.108.

⁸⁹ HRNSW, 2, p.300. Master, *Marquis Cornwallis* to Transport Commissioners of June 1795.

sentence of a general court martial for having refused 'being planted centinel while at Cork'.⁹⁰

Marquis Cornwallis sailed on 9 August 1795, with 163 male and seventy female convicts. From the beginning of the voyage, there were indications that Sergeant Ellis conspired with the convicts and disaffected members of the guard to organise a mutiny. By subterfuge, he obtained four clasp knives from the guard commander, Brabyn, which in early September, Ellis claimed he had lost. Thereupon, Brabyn gave him two more knives. On 9 September 1795, a month after sailing, the master, Captain M Hogan, received a note from two convict informers who asked to speak to him. Hogan was told a mutiny was to take place and the officers killed. Ellis as ringleader, would pass the knives to the convicts to free themselves of their irons prior to them rushing the deck. Simultaneously, Ellis and soldiers in the conspiracy would engage any officers on deck, and hand out arms to the convicts. Hogan advised Brabyn of this plan and proposed a kit check of the guard. This revealed that Ellis had in his possession all six knives issued by Brabyn. Surprisingly, Ellis was not restrained. According to the superintending surgeon, after 'Hogan received first information on the 9th of September, ... he kept [this] secret until he could get clear and satisfactory proof'.⁹¹ Meanwhile, Hogan 'cautioned the [ship's] officers and petty officers, with some confidential seamen, against any sudden surprize'.⁹² In Bateson's opinion, Brabyn was dilatory in that he took no action against Ellis.⁹³

On the night of 11 September, suspicion of Ellis was further heightened, when he was overheard by the ship's gunner talking mutinously to some sentries. After Hogan was advised of this, he again warned his officers and reliable crewmen to keep a sharp watch and also placed a sailor at the prison door with the sentries.

⁹⁰ *HRNSW*, 3, p.105. Stated by O'Donnell in evidence at a magistrates enquiry at Sydney in which he blamed another soldier, Martin, for instigating his disobedience. Martin, on board *Marquis Cornwallis*, was lashed for his part in the mutiny.

⁹¹ *HRNSW*, 3, p.109.

⁹² *HRNSW*, 3, p.110. Statement by Hogan.

⁹³ C Bateson, *Convict Ships*, p.149, for comment if Brabyn had 'acted with promptitude ... tragedy ...might have been avoided'.

Hogan received confirmation of the plot from another informer on 13 September, including detail that Ellis planned to use female convicts to smuggle knives to the males to remove their irons. The females were also to put powdered glass in the crew's flour. Further, it was found that Ellis had spiked six muskets, and also disabled two pistols belonging to one of his officers. On 15 September 1795, Hogan, who would have required Brabyn's concurrence, ordered Ellis and another soldier, L Gaffney, to be ironed together and secured on the poop deck. Then, rather than Brabyn formally disciplining them, Hogan took an unusual, but sensible step, by seeking a consensus of the military and ship's officers and men who agreed Ellis and Gaffney should be 'punished' [flogged] and, chained together, imprisoned. On the same day, over forty-two males were flogged and six women disciplined. Ellis died nine days later, still chained to Gaffney. After *Marquis Cornwallis* reached Sydney, Governor Hunter ordered an official inquiry into the attempted mutiny which found that Hogan did what was necessary to secure his ship and was correct in his dealings with the military. There is no record of any of the soldier conspirators being charged after arrival in Sydney.⁹⁴

Subsequently, several versions were given as to how the mutineers planned to break out of their prison to reach the deck. Accounts also varied on the sequence of events between 9 September, when Hogan was first informed of the plot, and 15 September, when he took preventative and disciplinary measures. A supposed follow-up mutiny, of dubious authenticity, reportedly occurred on 22 September,

⁹⁴ *HRNSW*, 3, pp.102-111. This account is selectively based on evidence, and written statements, presented at the Sydney inquiry. For magistrates' comments on Hogan's actions, p.102.

which was reported in a contemporary press account, and in Bateson's book.⁹⁵

Allegedly, one informer was strangled, with seven convicts wounded, all of whom subsequently died. There was no reference to such an occurrence in evidence given to a Sydney magisterial inquiry into the mutiny, nor was there any reference to any wounded convicts subsequently dying. The press report was apparently an over dramatised version of the following incident reported in evidence by the ship's doctor:-

That even after their punishment [the flogging of over forty convicts on 15 September] those who were punished endeavoured to strangle in the night those who had given information [up to three informers]. That Capt. Hogan was compelled to fire amongst them to suppress their mutiny.⁹⁶

Firing into the dark prison, it is conceivable that some convicts may have been wounded or killed, but nowhere were casualties reported. As this disturbance was a by-product of the main mutiny plot suppressed on 15 September, it probably passed virtually unnoticed at the Sydney inquiry.

The press report of events of 22 September described a considerable volume of pistol fire directed at mutineers at almost point blank range as they attempted 'to force down the bulkhead'.⁹⁷ This seems an unlikely act against a strong barrier, loop-holed so that fire could be directed into the prison with safety to the sentries outside. In this case, it seems improbable that not one of seven wounded convicts later recovered, or similarly that none were killed outright. With no mention of such casualties at the magisterial inquiry, the press reports are discounted.

⁹⁵ A letter from St. Helena, written a month after the mutiny by an unknown officer was published in two separate newspapers (*HRNSW*, 3, pp.4-5 and *HRNSW*, 2, pp.819-820). This stated that when Hogan conducted his twice weekly inspection of the prison, accompanied by the doctor and any other officers, they would be seized and 'put to death with their own swords'. The convicts would then rush the deck, where they would be 'assisted by the serjeant, corporal, and some of the private soldiers, who were to dispatch the officers upon deck, and also supply the convicts with arms.' A different account was given in a statement by Hogan 'at sea' dated 10 September 1795, but which recorded events up to 15 September (*HRNSW*, 3, p.110). He wrote that 'at daylight ... [the convicts] were to rush the deck ... when the boys were let up to clear the buckets.' C Bateson, *Convict Ships*, pp.148-150, used the press report account which does not appear justified in comparison to evidence from the magisterial enquiry (*HRNSW*, 3, pp.102-111). D Collins, *An Account*, p.267, gives an abridged account of the episode and is the only source which confirmed the press reports that the female convicts' task was 'the preparing of pulverised glass to mix with flour, of which the seamen were to make their puddings.'

⁹⁶ *HRNSW*, 3, p.109.

⁹⁷ *HRNSW*, 2, p.819.

Additionally, there was nothing in the sensational press reports, nor in evidence at the inquiry, to support Bateson's theory that Ellis, shackled to another soldier, died nine days later 'possibly having been wounded during the indiscriminate firing.'⁹⁸ Unreliable accounts such as the press report, together with outright lies of some soldier witnesses, and contradictions in details in ship's officers' evidence (probably due to different recollections of events that took place six months before), makes piecing together a reliable account of the mutiny on *Marquis Cornwallis* difficult.

Like *Marquis Cornwallis*, allegations of a serious plot on *Barwell* were the subject of conflicting evidence as to whether members of the guard were implicated. This was asserted to be the second plot to seize *Barwell* which sailed from Portsmouth, with 296 male convicts, on 7 November 1797. The only evidence of the first plot is a personal letter written from Cape of Good Hope by Richard Dore, Deputy Judge-Advocate Collins' replacement. Dore claimed twenty-five persons, presumably convicts, intended to mutiny but the plot was pre-empted after an informer passed a warning the night before.⁹⁹ Bateson notes that this incident was not recorded in the ship's log.¹⁰⁰ The second and more serious plot took place after the ship left Cape Town. From evidence of a Court of Vice Admiralty held in Sydney, dissatisfaction was rife in the guard detachment. The junior of the guards' two ensigns, G Bond, gave encouragement if not leadership to the disgruntled soldiers.¹⁰¹ In turn, the soldiers were allegedly conspiring with some convicts with the intention of seizing *Barwell* and making for Ile de France. On 24 March 1798, following a quarrel between two soldiers, there were instances of disobedience by

⁹⁸ C Bateson, *Convict Ships*, p.150. Rather than Bateson's theory of a stray shot being the cause of Ellis' death, it is considered that he probably died from complications arising from his severe flogging. One soldier witness at the Sydney inquiry referred to the imprisoned Ellis being abused by other convicts for being the cause of their punishment. He would not have been gently treated by the prisoners, nor by the ship's officers he had intended to murder. Hogan intended to bring charges of piracy against Ellis in Sydney. If Ellis had been shot and wounded, probably a desire to save him for the gallows, or humanity of the ship's doctor, would have resulted in him being unshackled from Gaffney to allow treatment to be administered.

⁹⁹ HRNSW, 3, p.356. Dated February 1798. Dore did not emphasise, or express concern over this plot.

¹⁰⁰ C Bateson, *Convict Ships*, p.166.

¹⁰¹ HRNSW, 3, pp.454-472; for proceedings of court, which provides the basis of this account.

soldiers and non commissioned officers, and near mutiny, before the detachment agreed to parade on deck without their arms. Bond, with the intent to encourage the soldiers' insolence, came up from his quarters, where he had been confined by the detachment commander, Ensign Bayly. Further trouble was preempted by the master, Captain Cameron and Bayly ordering Ensign Bond be confined in his cabin with his legs 'ironed about 2 inches separte [sic] from each other'.¹⁰² Several soldiers and convicts were flogged and, like Bond, 'confin'd on passage' until the ship reached Port Jackson on 18 May 1798.¹⁰³

For the Corps' conspirators, the sequel to the mutiny took place in Sydney. Bayly brought charges of drunkenness and other offences against Bond.¹⁰⁴ Major Foveaux, administering command of the Corps, sought and gained Governor Hunter's approval that Bond be allowed to resign his commission rather than face a scheduled court martial.¹⁰⁵ Presumably Foveaux's motive was to hush up the disgraceful conduct of one of the Corps' officers. This was unacceptable to Cameron who insisted, in the Court of Vice-Admiralty, on pressing charges of mutiny against Bond and five soldiers. As an actual mutiny did not take place, the prosecution had to rely on circumstantial evidence to prove a mutiny was planned. With contradictory testimony from witnesses, including convicts, who had been subjected to inducements by both opposing parties to taint their evidence, all defendants were found not guilty.¹⁰⁶ Despite these findings, there was no doubt in the mind of the Home Secretary, the Duke of Portland, that evidence against Bond was strong. He wrote bluntly to Hunter that Bond's resignation 'should not have been accepted, as it was evidently given in with a view to defeat his being tried by a Court-martial'.¹⁰⁷ Portland's under secretary, in advising Whitehall that Bond's

¹⁰² HRNSW, 3, p.472. Evidence by a convict who 'was under the necessity of lifting him [Bond] in and out of his cot'.

¹⁰³ HRNSW, 3, p.484. Hunter to Portland of September 1798.

¹⁰⁴ C Bateson, *Convict Ships*, p.166.

¹⁰⁵ HRNSW, 3, p.484.

¹⁰⁶ HRNSW, 3, p.467; for soldiers, and for Bond, p.472, where he was not required to plead, as the court decided that 'there is not sufficient evidence to his conviction'.

¹⁰⁷ HRA, 1, 2, p.391. To Hunter of November 1799. In his letter he did not specify whether he was referring to misconduct or mutiny on Bond's part.

resignation had been accepted by Hunter, was more explicit stating that Bond was 'endeavouring to stir up a mutiny amongst the convicts on board the *Barwell*'.¹⁰⁸

Compared to the guards' empathy with the convicts on *Barwell*, a cold blooded attitude was shown on *Hercules* which sailed on 29 November 1801 from Cork, with 140 male and twenty-five female convicts. The guard commander, Captain Ralph Wilson, reacted erratically, initially losing control and then showing misguided zeal in putting down a serious mutiny. The attempt to seize the ship took place at 2.15pm on 29 December 1801. According to the master, Captain L Betts, the only personnel on deck at that time were the officer of the watch, helmsman, two armed sentries and some convicts, exercising. Betts, the guard commander Captain Wilson, three ship's officers and two ladies were dining and except for the sentries, the guard were relaxing below deck, but with their muskets loaded.¹⁰⁹ With the advantage of surprise in the early afternoon, the convicts on deck attacked. Brushing aside the sentries, the watch keeping officer and helmsman fled, and the convicts gained the quarterdeck. The officers who were dining, rushed out to meet the challenge and a convict using a captured blunderbuss aimed at Betts, the weapon misfired and the convict was shot by Wilson. Betts claimed that others were shot by the officers, forcing the convicts to flee the quarter deck. Hearing the firing, the guard and ship's company hurriedly armed and;

began to vent their rage upon such of the insurgents as were to be found on deck, in beating them with cutlasses and the butt ends of their muskets, until at length they forced them down into the prison.

As a result, Betts claimed that twelve convicts were killed, and ten wounded of which two later died.¹¹⁰ This was no doubt a sanitised account of an uncontrolled slaughter, which reached its finale about an hour after security was restored, when Betts personally shot and killed an alleged ringleader, Jeremiah Prendergass, who was kneeling pleading for his life.

¹⁰⁸ *HRNSW*, 3, p.726

¹⁰⁹ *HRNSW*, 4, p.817, for evidence by the ship's chief officer.

¹¹⁰ *HRNSW*, 4, p.792. This version of the mutiny was from Betts' report to Governor King of June 1802, the date *Hercules* reached Port Jackson. As one of several discrepancies in this report, Betts was charged with the murder of thirteen convicts, but not fourteen, which was the number he reported as killed or died of their wounds.

In Sydney, Betts was brought before a Court of Vice-Admiralty facing two charges; murdering thirteen convicts during the mutiny and also Prendergass. He was found not guilty on the first count and guilty of manslaughter on the second with a fine of £500, deferred by Governor King until Betts' case could be reviewed in England.¹¹¹ In evidence, the guard sergeant, T Trotter, stated that there were three guards on deck (not two as stated by Betts). Two sentries, whose locations were not specified (probably on deck forward of the barricade), were armed with 'brass blunderbusses' and one on the quarterdeck with a 'cutlass and pistole'. The sentries were apparently wearing bayonets, as in evidence Trotter stated he was attacked by a mutineer 'coming forward with a bayonet pointed towards him'. Trotter claimed he heard only two shots fired by the officers on the quarter deck and that only one mutineer was killed before the convicts fled.¹¹² With this one man shot, the mutiny for practical purposes was foiled,¹¹³ and like that on *Albermarle*, it remained only for the convicts to be forced below into their prison and security would have been restored. Instead, in reply to the courts' question about where the convicts were shot, Trotter described the random nature of the killings: 'Some on the main deck, others between decks, and others in the hold.' Even an informer, who had previously given warning of the mutiny was killed. The court then endeavoured to establish whether or not the officers attempted to regain control over the crew and soldiers - 'Did you hear Capt. Betts give any orders to leave firing on the convicts?' To which Trotter replied that he did not 'but the chief mate, as well as dep't [the deponent, Trotter], endeavoured to stop firing.' No evidence was produced to challenge this lack of control exhibited by Betts and Wilson, which contrasted with efforts of their subordinates to stop the killing.¹¹⁴ To establish beyond doubt where command responsibility in the ship lay, the court

¹¹¹ *HRNSW*, 4, p.869. King to Hobart of October 1802.

¹¹² *HRNSW*, 4, pp.813-815, for Trotter's evidence. Referring to the quarter-deck, he stated 'I saw none shot there, but believe only one besides J____ P____ [Jeremiah Prendergass].' *HRA*, 1, 3, p.536, for convicts' names deleted in *HRNSW* account.

¹¹³ *HRNSW*, 4, p.814. Trotter 'considered the ship in safety after the q'r-deck had been cleared'.

¹¹⁴ This statement of Trotter's was not challenged by the chief mate, Aikin (elsewhere Aiken), who was a witness for the defence. Captain Wilson's evidence was vague, with the obvious intent of not showing himself to have lost control of his soldiers, like Aikin, he did not contradict Trotter's evidence.

asked Trotter under whose command he conceived himself to be. His reply indicated where responsibility for the massacre rested - 'Under Capt. Wilson and Capt. Betts.'

The foregoing accounts of mutinies at sea involving the New South Wales Corps illustrates deficiencies in the selection, training and discipline of officers, weaknesses in the non-commissioned officers, and problems with men pressed into service, including those from the Savoy, especially after the commencement of the Revolutionary War against France. The highly suspect Ensign Bond on *Barwell*, the lack of control of Captain Wilson on *Hercules*, the mutiny organised by Sergeant Ellis on *Marquis Cornwallis*, the sergeant who deserted *Salamander* just before sailing, the mutinies and difficulties at sea aboard *Boddingtons* and *Sugar Cane* involving unreliable guard detachments, problems caused by the six ex-Savoy prisoners on *Surprise's* second trip and the indiscipline of the troops on H.M.S. *Gorgon* provide a litany of woes. This sorry record deteriorates further, with the mutiny aboard *Lady Shore*, which is considered in the next chapter.

In making the above criticism, a special circumstance applied to the Corps as compared to its immediate successor the 73rd Regiment which came out to the colony as a complete unit in two naval ships.¹¹⁵ A general officer in 1840 wrote 'The 96th melt away by degrees to New South Wales and they threaten to take the 20th.'¹¹⁶ Like the 96th, the New South Wales Corps 'melt[ed] away by degrees' to the colony. Commencing with the Second Fleet, this is illustrated by the above accounts of many small guard detachments dispatched to the colony. This would have presented enormous difficulties for the unit's command and administrative staff which remained in England. Theirs was the task of fulfilling Home Office demands for guard detachments. This would have necessitated a hurried cycle of recruiting, equipping, training and administering those (often unfortunate) men who filled the ranks. Even where company sized groups were dispatched, such as the

¹¹⁵ See below, Chapter 12, p.310. For arrival of a detachment preceeding the mainbody.

¹¹⁶ JF McMahon, 'The British Army and the Counter-Insurgency Campaign in Van Diemen's Land with Particular Reference to the Black Line', Hobart, unpublished MHum Thesis, University of Tasmania, 1995, pp.8-9. Letter, General Sir C Napier to Commander 98th Regiment of 1840.

troops which sailed on *Gorgon*, *Pitt* and *Lady Shore*, the same problems would have applied in England.

The corollary to this was the fractured command and control situation which circumstances forced on the unit. There was little opportunity for Grose to exercise command and impress his will on his unit. For example, for six months he was out of touch with the Corps, apart from the troops accompanying him on *Pitt*. Meanwhile his unit was split between England and New South Wales, or on other vessels. Within the colony, the Corps were further subdivided in various outlying garrison posts. With strong officers administering command on Grose's behalf in either England or the colony - a normal military procedure in such cases, unit discipline could have been maintained. It appears that this was the case in the colony, where earlier Corps arrivals worked side by side with the marines, as illustrated by both marines and soldiers taking part in Phillip's punitive expeditions against the Botany Bay Aborigines in December 1790, also in garrisoning Norfolk Island, where similar to other detachments operating in that very small community, there were some friction. Indeed, Phillip's silence on the soldierly behaviour of the Corps in the colony, is possibly an indication that the governor was satisfied with their performance and discipline under their initially appointed company commanders.¹¹⁷ By the time Governor Hunter arrived in the colony, it was a different story at sea and on shore. Ironically, the concerns of moral and criminal contagion, which were often raised about the corruption of convicts, seems to a degree to have applied to the New South Wales Corps guard detachments on their passages to the colony.

¹¹⁷ Personal animosity between Ross and Captain Hill on Norfolk Island, and the duel they fought the day before Ross sailed for England, are not considered factors to alter the author's opinion. See above, Chapter 3, pp.66-67, for Phillip's expedition involving marines and soldiers, and Chapter 4, pp.95-96, for their co-existence, with some problems, on Norfolk Island.

Chapter 7

The 'Unfortunate Fate of the Lady Shore'

On 1 August 1797, elements of the guard detachment on the transport *Lady Shore* executed a successful mutiny, capturing the ship in the name of the Republic of France. As a sequel, a naval Transport Office report to the Home Secretary, the Duke of Portland, stated:-

And on Account of the unfortunate Fate of the Lady Shore and the little Trust which was found in the military Guard on board that Ship, ... it was agreed, under the Sanction of a Communication with Your Grace's Office ... that the Owners [of *Hillsborough*] should provide a [civilian] Guard of 30 Men, over and above the 48 [crew] which formed the Ship's Complement¹

This derogatory observation applied to the New South Wales Corps and its guard which had embarked on *Lady Shore*, and was blamed for its loss. Blame should have also been directed at the War Office which administered the Corps and appointed officers to positions of responsibility in that unit. Wartime stresses and shortages of officers and men in the fourth year of Britain's involvement in the Revolutionary War with France, contributed to the mutiny. Nevertheless, ultimately the ship's fate was decided by the culpable neglect of two officers who failed to confront their responsibilities.

The first officer, Francis Grose, had returned to England from New South Wales in 1795, and promoted lieutenant colonel while continuing to command the New South Wales Corps. His record in the colony indicated that Grose was 'indolent by nature, he displayed no desire to follow Phillip's practice of

¹ AJCP, reel 4400, *Admiralty out letters to Navy Board, Pay, War Office, Home Office, Colonial Office*, ADM 108/20, p.48, dated 11 June 1801. In reply to Governor Hunter regarding high mortality on *Hillsborough*.

maintaining a close personal watch over every aspect of the settlement ... a man generally believed reluctant to act on his own initiative.’² The other officer, of Anglo-Irish stock with military traditions, was Ensign William Minchin³ aged about twenty-three in 1797, married, and according to the *Australian Dictionary of Biography* commissioned on 2 March 1797.⁴ Military historian, Brigadier M Austin, who considered that Minchin had no previous military service in his home County of Tipperary, wrote that Minchin was ‘appointed Adjutant of the Corps on 8 November 1796, and gazetted as Ensign on 4 March 1797’.⁵ Accepting the minor discrepancy on appointment dates, and that it is subject to disputation whether or not he had previous artillery training,⁶ Minchin commenced his career in the Corps in November as a “gentleman” and completed about four months service before he was commissioned.⁷ Therefore, he was not a totally inexperienced officer when he assumed command of the guard detachment on the *Lady Shore* in late March 1797.⁸

Routine contractual matters provided the low key introduction of *Lady Shore* into naval records. On 3 January 1797, the Commissioners for the Transport Service advised the Home Office ‘that they can immediately engage a Passage for 50 or more Women to New South Wales at a rate of £22, per Head, and half-price

² ADB, 1, p.489.

³ M Austin, ‘William Minchin of the New South Wales Corps’, *JRAHS*, Vol. 50, Pt. 6, December 1964, p.414.

⁴ ADB, 2, p.233.

⁵ M Austin, ‘William Minchin’, p.415. Austin (on p.427) quotes authority for this statement as ‘Army Lists from War Office Librarian.’ The explanation for Minchin being appointed adjutant before he was commissioned lies in an extract of an Army directive relating to the Corps, quoted by Austin (p.415) which states that officers ‘in their respective ranks ... are to fall into vacancies in the establishment as they shall occur.’

⁶ In this author’s opinion, Minchin probably had artillery training before being appointed to the Corps.

⁷ The officers originally gazetted to the Corps, in October 1789, (tabulated list, Chapter 5, p.116. included a non commissioned ‘gentleman’, Thomas Rowley, appointed ‘to be adjutant’. In turn, Minchin would have been classified as a ‘gentleman’ on the Corps’ headquarters whilst serving as adjutant and probably waiting for an officer vacancy on the establishment. That Minchin had been so appointed, tends to indicate, that in accordance with R Holmes’ comments on serving ‘gentlemen’, (see above Chapter 5, p.117, footnote 81), Minchin probably had previous service as a non-commissioned officer, this may have been with battalion guns or artillery in the Irish militia.

⁸ *HRNSW*, 3, p.201 and footnote. War Office to Paymaster-General of 25 March 1797: for a detachment ordered to embark.

for Children ... [on] the Lady Shore of about 300 Tons'.⁹ By 17 January, the ship was chartered, and it was recommended the 'Female Convicts ... [be received] at Galleons near Woolwich, which is ... more convenient for their Reception, on account of the Crowd of Persons, which have hitherto attended their Embarkation nearer the Town [London], and which have occasioned many Inconveniences.'¹⁰ On 7 February, the Transport Office advised the Home Office that on completion of loading provisions, *Lady Shore* would shortly be ready to receive convicts.¹¹ In addition to transporting convicts, a wide variety of cargo was loaded for the colony, including naval stores required by Governor Hunter 'for the colonial Schooner'.¹² On 16 March, the Home Office was advised by the War Office that ten tons of arms required shipping to the New South Wales Corps.¹³ Presumably, this included, the 'hundred stand of arms', which were for 'entrusted' settlers' use against 'a gang or two of banditti'.¹⁴ Amongst other items shipped were a case of medicines,¹⁵ and a large quantity of farming tools together with metal for fabricating nails and other items¹⁶ - a valuable cargo.

Concurrently with naval transport administration, army authorities had been making arrangements regarding the ship. On 7 February 1797, the War Office wrote to 'Offr Comg [Officer Commanding] H.M.'s Forces New South Wales' that deserters would be held in the Savoy 'until an Opportunity shall offer for conveying them to New South Wales, where they are to join Lieut Col. Grose's Corps'.¹⁷ The *Lady Shore* provided that opportunity as indicated by a War Office

⁹ AJCP, reel 4400, *Admiralty out letters to Navy Board, Pay, War Office, Home Office, Colonial Office*, ADM 108/19, p.63. To J King Esqr. (John King, then 'Under Secretary in the Home Office', HRNSW, 3, footnote to p.481).

¹⁰ ADM 108/19, p.66. Transport Office to King.

¹¹ ADM 108/19, p.69.

¹² ADM 108/19, p.69. Transport Office to Portland of 15 February 1797.

¹³ AJCP, reel 1073, *Out Letters Secretary-at-War New South Wales Corps, 1790-1802*, WO 4/845, p.67.

¹⁴ HRNSW, 3, p.195. Portland to Hunter of March 1797, for 'banditti'. Portland noted the consignment amounted to a 'hundred stand of arms'.

¹⁵ WO 4/845, p.77, for one chest of medicines, replacing 'what was sent by the Lady Shore'.

¹⁶ HRNSW, 3, p.192, for tools and metal for fabricating.

¹⁷ WO 4/845, p.66. Addressed to the 'Offr Comg', as the Commanding Officer, Grose, had returned to England and the War Office may have been uncertain who would be administering command of the Corps when their letter arrived in the colony.

letter to the Home Office on 16 February:-

There being ... in the Savoy prison six soldiers ... ordered ... to serve for life in a regiment stationed in New South Wales, I am directed by the Secretary at War to enquire whether these men (with four women and two children), *together with a proper escort* [emphasis added], amounting in all to about twenty soldiers, can be received on board the transport which ... is on the point of sailing ...

As there are about fifty more recruits at Chatham for the same destination, it will be very desirable that they also should obtain a passage by the same conveyance.¹⁸

It is noteworthy that the men from the Savoy were not part of the guard, but that the balance of the twenty man detachment was to provide a '*proper escort*' for the six ex-prisoners and convict women. In response to the War Office request, on the following day, the Transport Office advised the Home Office that *Lady Shore* could take both the guard and recruits.¹⁹

In February 1797, the role of troops to be embarked on *Lady Shore* was broadened beyond that of escorting convicts and performing internal security duties in New South Wales. By then, with Spain an ally of France, the war had developed into a world wide struggle. Like the Seven Years and American War of Independence, this conflict involved widespread naval and amphibious operations. In a small way, this had been illustrated in July 1796, when the French captured *Lady Shore* whilst homeward bound from the Cape of Good Hope. Her cargo was looted, then she was released.²⁰ By coincidence, she was back in England and under charter to the Transport Office, when in February 1797, a strategic decision was taken to strengthen the New South Wales Corps with a view to using part of that unit for offensive operations.

As a result of this decision, additional officers and men were ordered to the colony to meet imperial, not colonial, requirements. The Home Secretary advised Hunter, these troops were to be part of an augmentation of the Corps to ten companies, the purpose being:-

¹⁸ HRNSW, 3, p.193. Under Secretary Lewis to King.

¹⁹ ADM 108/19, p.70. To King of 17 February 1797.

²⁰ C Bateson, *The Convict Ships 1787-1868*, Glasgow, 2nd ed. 1969, p.151. *Lady Shore* was captured by the corvette *Le Moineau*.

Four companies ... of eighty-five per company, are to hold themselves in readiness for actual [active] service under command of Major Paterson, who will receive the necessary directions for that purpose, on the arrival at the settlement of a naval force, which will have orders to receive Major Paterson and the detachment on board. Seventy recruits and three subaltern officers will arrive in the *Lady Shore*.²¹

While *Historical Records of New South Wales* record 'It is not known on what service these four companies were to be employed', *Historical Records of Australia* note that 'it is probable that an expedition was projected against one of the Spanish settlements in the Philippine Islands'.²² The matter is clarified by JW Fortescue and A Frost. A fleet was to embark 1800 troops at Cape Town, then proceed to New South Wales (obviously as a port of refreshment), there collecting the four companies of the Corps. It was originally intended that the force attack Spanish towns on the Rio de la Plata, but this was changed to the vague objective of 'the south-west coast of America'.²³ In the event, the plan was short lived, as on 6 March 1797, the Secretary at War advised the Home Secretary that the proposed expedition should not proceed.²⁴ Despite this cancellation, the additional reinforcements were still dispatched to the colony. Once embarked, there are differing versions on the behaviour of the soldiers and how the ship was captured.

English language accounts of the mutiny are primarily based on published reports by surviving ship's officers, the Second and Third Mates and Purser.²⁵ No accounts written by military personnel on board, or extracts from military records

²¹ HRNSW, 3, p.194. Portland to Hunter of February 1797. Of the augmented 850 rank and file, 510 'Will remain in the settlement' - obviously for internal security duties - after the departure of Paterson's detachment of '340' other ranks. A total at variance, in the same letter, with the order to provide four companies of 85, which equals 260. A third subaltern did not join the other two, Ensigns Minchin and Prater.

²² HRNSW, 3, footnote, also HRA, 1, 2, p.704, Commentary Note 6.

²³ JW Fortescue, *A History of The British Army, Vol.4, Pt.1, 1789-1801*, London, 1906, pp.527-528. A Frost, *Convicts and Empire A Naval Question 1776-1811*, Melbourne, 1980, pp.164-165.

²⁴ HRNSW, 3, p.196. Dundas to Portland. A Frost, *The Global Reach of Empire, Britain's maritime expansion in the Indian and Pacific oceans 1764-1815*, Carlton, 2003, p.254. The expedition was cancelled because of 'reverses in Europe and the emerging expense of the venture'.

²⁵ Respectively; Simon Murchison, Gerald Drummond and John Black. Their joint statement is recorded in ADM 108/19, pp.124-138, and as an additional statement, by Murchison, pp.144-150: published (with editorial amendments) in HRNSW, 3, pp.392-397 and pp.413-415.

concerning the mutiny, are known to have been published. This has resulted in an inadequate picture being presented in both primary and secondary accounts, which lack a clear explanation of how a minority of mutineers overcame, and then kept in subjugation, a larger number of soldiers as well as the crew. Fortunately, an unpublished transcript of Minchin's 1799 general court marshal helps correct this imbalance.²⁶ This document is valuable because it contains evidence given by army survivors Minchin, Lieutenant (then Ensign) William Prater,²⁷ and three New South Wales Corps non-commissioned officers²⁸

Another collection of primary source documents is held in the National Archives, Paris, and have been usefully cited in Jean Guillou's description of the mutiny on *Lady Shore*²⁹ as well by Charles Bateson, in *The Convict Ships*.³⁰ With Guillou's sense of national pride, his treatment of the French wartime seizure of *Lady Shore* presents a patriotic emphasis compared to the British survivors' laconic accounts.

Guillou's account focuses on the Frenchmen enlisted into the New South Wales Corps. He claims the two key players were 'Citizen' sailors, Selis [elsewhere Dubois], the signalman, and Thierry, the second pilot, both crewmen

²⁶ *Proceedings of a General Court Martial held at Portsmouth on 11th 12th & 13th days of July 1799 for the Trial of Ensign & Adjutant William Minchin of the New South Wales Corps, (Section or Bundle) 19, WO 71/184, pp.1-29. Obtained by courtesy University of Tasmania from PRO London.*

²⁷ WO 71/184, p.17, for Prater's new rank, in the 60th Regiment.

²⁸ Sergeants Richard Burns and Thomas Hughes, and Corporal George Morrison. Refer: AJCP, reel 1075, *Lady Shore - Mutiny, Claims of 8 NCOs ... who were taken to Mount Avido South America in August 1798, & remained there as prisoners of War until Sept 1801 - thence were sent to the Cape & finally home in 1806, from W.O.Unnumbered Papers 1802.B [Bundle B], WO 40/16, no pagination, frames 19-21, for a return, listing the names of the detachment, and date and place of their embarkation on Lady Shore, 'under the Command of Ensign Minchin'. In the nominal roll, Burns is listed as 'Serjeant Barnes'.*

²⁹ J Guillou, 'The Capture of the Convict Transport Ship, The Lady Shore, by French Sailors', *The French Presence in Australia: Sailors, Settlers and Ships, Essays by Jean Guillou*, translated and edited by M. Kuilboer and M.S.Riviere, Northern Queensland: James Cook University, 1994, *passim*.

³⁰ C Bateson, *Convict Ships*, pp.151-157.

from the French corvette *Bonne Citoyenne*.³¹ This warship was part of a fleet bound for the West Indies, separated in a storm, dismasted and captured by British ships.³² As prisoners of war, Selis and Thierry made a break for freedom from Portsmouth, escaping by boat, but were apprehended by a coast guard vessel and returned to prison. Selis and Thierry were now 'Deemed to be deserters' and confined on a hulk waiting transportation to Botany Bay'.³³ There, 'to escape their miserable lot, [they] had enlisted in the New South Wales regiment in Australia'.³⁴

Bateson notes from a French report that Delis, also known as Selis and Dubois, chief helmsman, and Thierry, second coast-pilot, were two prisoners from *La Bonne Citoyenne* placed aboard the *Lady Shore*.³⁵ WD Edmonds and TG Parsons' account agrees with that of Bateson, giving the additional information that *La Bonne Citoyenne* was captured in March 1796, further, they refer to Thierry as 'alias Corporal Thomeo'.³⁶ This links the identity of Thierry and Thomeo with that of 'Corporal Thomrie' in the nominal roll of soldiers embarked on *Lady Shore*.³⁷

³¹ J Guillou, *Capture Lady Shore*, p.89. For identification of individuals, the names used by Guillou, Bateson and other sources, often vary. For example, 'Selis, the signalman' (p.89) is described by Bateson (p.151) as 'Delis, the chief helmsman'. In *HRNSW*, 3, p.393; Second Officer Murchison's account of the mutiny, refers to 'Dubois [*alias* Deliz]'. This links the names 'Selis' and 'Eliena Dubois', listed in *WO 40/16* (20th frame), as a member of the Corps' detachment which embarked on *Lady Shore*. Hereafter, 'Selis', 'Delis/Deliz' will be referred to as 'Dubois'. Separately, *HRNSW*, 3, p.394, refers to 'Thomeo [*alias* Thierry]'; in *WO 40/16* (frame 19) the name 'Corporal Thomrie' in the embarkation roll is equated with 'Thomeo'. In evidence at Minchin's court martial, Sergeant Hughes referred to a mutineer named 'Corporal Tominion' (*WO 71/184*, p.10) and a question to him by the Court (refer p.16) was 'Was Corporal Thomo employed often by the Captain in the Navigation of the Ship?' This apparently confirms *HRNSW*'s identification of Thomeo (also Thomrie) 'Thominion' and 'Thomo') with Guillou's 'Thierry, the second pilot', who Bateson (p.151) refers to as 'the second coast-pilot'.

³² While Guillou (p.89) wrote that Admiral de Sercey's fleet was bound for the East Indies, Bateson (p.151) states this fleet was making for the West Indies. With warfare between Britain and France having commenced in the West Indies from 1794, including associated naval manoeuvring; and also with the route to the East Indies denied to the French with the British occupation of Cape of Good Hope from 1795; it is considered that Admiral de Sercey's fleet would have been making for the West Indies.

³³ J Guillou, *Capture Lady Shore*, pp.89-90.

³⁴ J Guillou, *Capture Lady Shore*, p.91.

³⁵ C Bateson, *Convict Ships*, p.151.

³⁶ WD Edmonds and TG Parsons, 'Jacobinism Afloat The Insurrection on the 'Lady Shore' in 1797', *History Today*, Vol.34, No.4, November 1984, p.12.

³⁷ *WO 40/16*, frame 19.

Guillou's, and the above two accounts, fail to explain how a French sailor (probably of petty officer or officer status, being 'second-coast pilot') could have been captured as a prisoner of war in March 1796, yet by 27 March 1797, the date of embarkation of the Corps' detachment on *Lady Shore*,³⁸ be a corporal in the British Army. Guillou, working from French records, notes that Selis and Thierry were prisoners for seven months before their unsuccessful escape attempt from Portsmouth.³⁹ As this was followed by transfer to a hulk, it would be reasonable to assume this transfer represented a lapsed time of eight months from when they were first captured on the *La Bonne Citoyenne*. It is scarcely conceivable that within four months of time remaining before Thierry embarked as a corporal, he could have enlisted (from the hulk), received enough training to show his aptitude as a non-commissioned officer and then been promoted. From the embarkation nominal roll (other than for three obscured names), it does not appear that there is a possibility of mistaken identity between two men with names approximating Thierry and Thomrie. Therefore, if Thierry and Thomrie are one and the same, his account published in France after his return home following the successful mutiny on *Lady Shore*, must include distorted truths concerning his adventures. Edmonds and Parsons make a similar assumption on another aspect of Thierry's story when they write 'Thierry's letter also seems to have been ambiguous'.⁴⁰

A final assumption is made by this writer, based on the War Office documentation that Thierry/Thomrie was a corporal at time of embarkation. This is that he boarded *Lady Shore* as a "free" soldier rather than one of six ex-Savoy prisoners who were in chains when embarked. Given the insecurity of non-commissioned rank, Thierry would certainly have been a private soldier if he had come from the Savoy. Probably, his fellow crewman from *La Bonne Citoyenne*, Dubois, also came aboard with Thierry rather than with those from the Savoy. If so, the two future leaders of the mutineers would have been more readily accepted, without obvious hint of suspicion by the English elements of the Corps on *Lady*

³⁸ WO 40/16, frame 19.

³⁹ J Guillou, *Capture Lady Shore*, p.89.

⁴⁰ W D Edmonds and TG Parsons, 'Jacobinism Afloat' p.14.

Shore. The names of the ex-Savoy prisoners are not known, but they were described as some British Army deserters who 'principally consisted of a party of the 60th regiment, composed of foreigners and Irish'.⁴¹

On 25 March, the War Office confirmed that the total strength of the detachment to be embarked was '1 Adjutant 3 Serjeants 67 Private Men'.⁴² In fact, three sergeants, four corporals, three drummers and sixty-four privates were listed as having been embarked at Gravesend on 27 March 1797.⁴³ This company-sized detachment was under command of Ensign Minchin,⁴⁴ who had been commissioned 'in consequence of the intended Augmentation'.⁴⁵ It was not until 1 April that the War Office requested Home Office approval for a second officer, Ensign Prater, a reinforcement for the Corps, to be given passage on the transport.⁴⁶ Minchin retained command of the detachment, as in regimental seniority, he was Prater's superior officer by one day.⁴⁷

The troops embarked at Gravesend, with their behaviour attracting several adverse reports from the ship's officers before *Lady Shore* finally departed English home waters. When Minchin first came on board, he told Second Mate Murchison that 'we must look very sharp after some French and Irish deserters ... one of the Frenchmen had told General Fox ... [at] Chatham Barracks, that if they could not

⁴¹ *Times*, No.4652, London, 28 November 1799, p.3, column 4 (p.3.d). Evidence by Lieutenant Prater in an examination of two captured *Lady Shore* mutineers, at the Public Office, Bow Street.

⁴² WO 4/845, p.68.

⁴³ WO 40/16, frames 19-21. Other ranks' names were serially numbered, thus it can be established that at the bottom of frame 19 one private's name (serial 14) is obscured and two privates (serials 44 and 45) are obscured on frame 20.

⁴⁴ The Corps' company establishment was:- 1 captain, 1 lieutenant, 1 ensign, 3 sergeants, 3 corporals, 2 drummers and 67 privates. Therefore, Minchin, as an ensign, for a voyage of six months, was to command a company sized force. The February 1797 planned size of an augmented company was eighty-five other ranks.

⁴⁵ WO 4/845, p.67. Letter to Grose of 13 March 1797, advised cancellation of the augmentation, but that the officers promoted would remain seconded in their ranks until there were vacancies in the Corps' establishment.

⁴⁶ WO 4/845, p.68. The Home Office request to the Transport Office of 2 April 1797. Next day, the War Office noted the passage was approved if 'the above Ship has not sailed' (p.69).

⁴⁷ HRNSW, 3, p.526; 'Date of Appointment[s]' were Minchin '2 Mar.,1797' and Prater '3 do [ditto]'.

take the ship they would set her on fire, for to Botany Bay they would not go.⁴⁸

This reported statement is suspect. It is unlikely that an eighteenth century British general officer would have placed himself in a position to be spoken to by a French escapee or convicted soldier. Therefore, the remark allegedly passed in the presence of General Fox was possibly a figure of speech used by Minchin to indicate potential dangers associated with this draft.⁴⁹ As this comment was included in an official report prepared for Captain Campbell, the naval Transport Office's Agent in Cape Town, Second Officer Murchison would have been careful to accurately report Minchin's Gravesend remark. But, the record of this conversation illustrated early tensions caused by the polyglot nature of the guard made up as follows:-

Sergeants: two English (Barnes and Hughes) and one Irish (Murphy).

Corporals (4) and Lance Corporals (1): two English, Jones and Morrison; one French, Thomrie; two 'German or Dutchmen', Spice and Lance Corporal Cripo (presumably also 'Louis Crepon - A Mutineer', listed in WO 40/16, frame 20, and probably a Frenchman).

Privates: about thirty-seven English, twelve or thirteen Irish and fourteen or fifteen 'foreigners'.⁵⁰

The ex-Savoy prisoners were sent on board *Lady Shore* in irons and under a strong guard.⁵¹ To the 'great astonishment' of Murchison, a few days later they were released, armed and placed on sentry duty.⁵² After the full contingent had boarded, Purser Black considered:-

the soldiers are the most disagreeable, mutinous set of villains that ever entered into a ship. Two of the serjeants behaved so ill that Captain Willcocks [the master] was obliged to insist upon their commanding officer confining them in irons ... two of the [soldier] villains [wanted] to know if he [Major Semple, a male convict] would head them in an attempt to seize the ship after they should get well out to sea, and had left the convoy, one of them ... telling him this was the eighth time he had been embarked for Botany Bay without reaching it, and he was determined he would not this

⁴⁸ HRNSW, 3, p.413. Murchison's report to Captain Campbell of 21 January 1798.

⁴⁹ However, the quotation has been accepted as factual in many secondary accounts. For example; M Austin, 'William Minchin', p.415; WD Edmonds and TG Parsons, *Jacobinism Afloat*, p.12; C Bateson, *Convict Ships*, p.151.

⁵⁰ WO 71/184, p.13. Sergeant Hughes' evidence. He referred to 'Corporals Spice, and Cripo' (p.14). As Cripo was the only 'corporal' not listed by that rank in WO 40/16, he must have been the lance corporal.

⁵¹ HRNSW, 3, p.397.

⁵² HRNSW, 3, p.413. Murchison's report.

time⁵³

When *Lady Shore* reached Portsmouth, Sergeant Hughes and other non-commissioned officers refused to leave the quarter deck when so directed by First Officer Lambert. Minchin's assistance was requested by Lambert, and coming up to the 'top of the ladder' from his 'tween deck cabin,⁵⁴ Minchin ordered his men off the deck. With the exception of Hughes, the men obeyed 'after a deal of insolence'. Apparently, after issuing this order Minchin returned to his cabin. Meanwhile, Hughes still refused to leave the quarter-deck and threatened violence against Lambert, who then called to Second Mate Murchison to arm himself and come to his aid. Hughes thereupon started going below to fetch his 'sword' to prevent any ship's officer ejecting him by force.⁵⁵ Only the intervention of Major Semple, a convict swindler, wielding an axe, and threatening to strike Hughes if he harmed any ship's officer, resolved the tense situation. Minchin avoided further involvement in the affair by remaining below. When the master, Captain Willcocks, came on board that evening, he demanded that a reluctant Minchin take disciplinary action against Hughes. Because of Willcocks' insistence, Hughes had one hand placed in irons overnight.⁵⁶ While illustrating the lack of discipline within the detachment, more significantly, this incident shows Minchin to be without fortitude to meet a challenge to his authority and enforce instant obedience. On Hughes' first refusal to obey Minchin's order (a serious crime especially in wartime), Hughes should have been immediately arrested, and arrangements made with the Portsmouth Garrison for him to be court martialled.

Then, on passage to Torbay, Captain Willcocks was abused by another sergeant. On arrival there, Murchison later recalled:-

⁵³ HRNSW, 3, p.205. Black to his father of May 1797, which recorded events after that date.

⁵⁴ The term " 'tween" was used in *Lady Shore* accounts to indicate the deck between the main deck and hold. As a useful nautical term, this has been retained in this chapter.

⁵⁵ R Holmes, *Redcoat The British Soldier in the Age of Horse and Musket*, Hammersmith, 2001, p.5. Infantry sergeants were then armed with plain swords (compared to those carried by officers) and 'halfpikes, whose broad blades tip nine-foot ash hafts.'

⁵⁶ HRNSW, 3, p.414. Recorded later by Murchison.

While we were in Torbay the ship was in great confusion. The captain, finding it impossible to get her into any good order (as Mr. Minchin would not, nor could not, take an active part in arranging his men, and bringing them under good subordination, who were getting more riotous every day) wrote to General Fox, and, I think, to the Duke of Portland, about the disorder the troops were in.⁵⁷

As a result of this letter, or letters, Lieutenant Colonel Grose was ordered to visit the ship and investigate the situation. This introduced the second irresponsible army officer involved in the mutiny.

Murchison claimed that Grose's investigation only lasted 'a few minutes'. Presumably Grose was met by Minchin and then spoke to Captain Willcocks. In reply to a query by Willcocks, Grose stated that it 'was perfectly right' that the ex-Savoy soldiers who came on board in irons were now in possession of arms and ammunition. Having refuted Willcocks' concern, Grose left the ship promising to return in the morning. This second visit did not eventuate, as immediately he went ashore, Grose departed for London, where he submitted an adverse report on Willcocks as a 'passionate overbearing man'.⁵⁸ Grose was dilatory in his duty in not investigating the causes of friction between the ship's officers and army detachment. Grose ignored, or failed to appreciate, that the matters of which Willcocks complained, indicated a low standard of discipline in the detachment and the inadequacy of Minchin as an officer. Grose definitely should have reprimanded Minchin, demanding he take firm command of his men. There is no suggestion that Grose gave either advice or admonition to Minchin. Regarding the ex-Savoy prisoners, Grose's response to Willcocks' legitimate concern over security, was naive and it appears that Grose wanted to avoid creating an issue with which he would have to deal. Grose totally ignored the War Office directive that the remainder of the guard were '*a proper escort*' for the ex-Savoy men, who were not a part of the guard. Arguably, his dereliction of duty, as commanding officer, appointed to investigate Willcocks' formal complaint, directly contributed to the mutiny and the murder of the complainant.

⁵⁷ HRNSW, 3, p.414.

⁵⁸ HRNSW, 3, p.414. Probably based on Minchin's opinion of Willcocks.

Apart from Grose's tendency to avoid responsibility, other factors helped seal the fate of the *Lady Shore*. Critical wartime manpower shortages in the army meant that little interest would have been shown at the War Office had Grose demanded that Minchin or indeed some of the non-commissioned officers and men be replaced by better troops. A War Office attitude was likely to have been that if Grose had a problem with his officers and men, as their commander, he should have fixed it - which Grose never attempted. While it would have been administratively difficult to isolate the ex-Savoy prisoners from both the convicts and armed soldiers for six months in the confined space of a three hundred ton ship, it nevertheless should have been attempted. At the very least, Grose and Minchin should have devised a plan to deny the ex-prisoners access to weapons. Despite the danger apparent to Captain Willcocks, the army officers may have been lulled into a sense of false security by the apparent good behaviour of the conspirators. At Minchin's general court martial, the following is a transcript of a question put by Minchin to Sergeant Burns:-

Q Was the Conduct of the Men who mutinied prior to the Mutiny such as to leave no Grounds for suspicion?-

A It was; they were chiefly the best behaved and most orderly in the Ship except two or three Irishmen who when drunk were wranglesome and Mr Minchin always took care to confine them till sober.⁵⁹

Sergeant Hughes, in reply to a question by the court, admitted that before the seizure of the *Lady Shore*, the mutineers 'in their Military Duty were pretty steady'.⁶⁰ The inference from this evidence is that as a deliberate deception, to diffuse any suspicions as to their intentions, the conspirators took care to present themselves as dependable soldiers. Notwithstanding all excuses that could be offered in defence of Grose, had he taken an interest in eliminating the contentious security issue, and given firm orders to Minchin, a mutiny attempt would have been pre-empted or had little chance of success.

The last reported instance of the detachment's ill discipline in home waters

⁵⁹ WO 71/184, p.8. Burns' reply was obviously directed to the court and not to Minchin.

⁶⁰ WO 71/184, p.15. Hughes did however complain that at the crossing of the equator, these men, particularly the Frenchmen, 'were disobedient' in refusing 'ducking'. They 'armed themselves, and would not come up'.

occurred at Falmouth. First Mate Lambert 'was very grossly insulted by one of the corporals and his wife; the former knocked him down twice, and the other knocked the dirty clothes she was washing about his face'. Again Minchin preferred to overlook the matter and was reluctant to take any disciplinary action until he was forced to do so by Willcocks. Second Mate Murchison, in his account, quoted Willcocks as saying to Minchin 'if such acts of mutiny were overlooked he and all the ship's officers would lose their command very shortly.' Minchin then tried the corporal in a regimental-style court martial which was a fiasco. The court's sentence was that the corporal 'beg Mr. Lambert's pardon' - which he never did. Of particular annoyance to Murchison were reports he received from the army officers' two servants that they overheard Minchin saying he 'intended to put the captain in irons when he got to sea'. Willcocks ignored this hearsay threat.⁶¹ With such animosities being exhibited, *Lady Shore* sailed from Falmouth on 8 June 1797.⁶²

Evidence presented at Minchin's court martial provides an insight into the soldiers' routine and duties on a convict transport. In the case of *Lady Shore*, as a female transport, guard duties were relaxed compared to a transport carrying male convicts. Due to the large draft of soldiers, seventy-three compared to the usual twenty to thirty, and the small number of convicts, sixty-five females and two males,⁶³ (as opposed to usually over two hundred males,⁶⁴) the distribution of accommodation aboard *Lady Shore* differed from most convict transports. The soldiers were accommodated midships, normally the main convict prison. They, and their dependents, in this 'tween deck compartment, were separated by a strong

⁶¹ HRNSW 3, p.415. Murchison's report.

⁶² J Black, *An Authentic Narrative of The Mutiny on board the ship Lady Shore with Particulars of a Journey throughout Part of Brazil: in a Letter dated "Rio Janeiro, Jan. 18, 1798" to The Rev. John Black, Woodbridge, from Mr. John Black, One of the Surviving Officers of The Ship*, Ipswich, 1798, p.2, for sailing date.

⁶³ *Bonwick Transcripts*, Mitchell Library (ML), reel CY679, A2000-2, pp.381-382. Letter R. Dore to Sir M le Fleming of 5 February 1798. Male convicts were 'Semple the notorious Major and Knowles the pardon vender'.

⁶⁴ WO 71/184, p.5. These military and convict figures including Semple and Knowles, were listed by Burns in evidence. WO 40/16, frames 19-21, indicate seventy-four other ranks embarked, but possibly one may have been withdrawn from the draft, or deserted at the last minute. Alternatively, Burns may have been incorrect in his total.

bulkhead from the female convicts forward of them, and by a grating⁶⁵ from the steerage area, aft. This was occupied by the majority of the crew, 'about 30 whites', while the balance '17 or 18 Lascars' were probably in the forecabin.⁶⁶ In the stern, was the Great Cabin (or cabins), where the army officers and ship's surgeon were accommodated. The only access to the main deck for the soldiers was by a ladder up through the main hatchway, located midships, while a fore hatch provided access to the female convicts. Security grating hatches were available to be laid and secured over both these hatchways. An after hatch gave access from the 'tween deck up to the quarter deck. This was used by the Minchin family and Prater and the crew in steerage. Significantly, this unusual layout effectively separated the soldiers from their officers and crew, all of whom could usually move around freely in the after part of the ship, creating 'a small fortress' 'tween deck, from which they could, in event of trouble, debouch onto the quarter deck.⁶⁷ Apart from Surgeon Fyffe in the great cabin area, the ship's officers, were housed on the main deck aft of the quarter deck. At the forward edge of this deck, a barricade was erected to seal off the main deck, where the convicts could be exercised. On *Lady Shore*, there was a total of four four-pounder cannon. Two were mounted forward and two on the quarter deck, aft. All could sweep the main deck with grapeshot if necessary. A probable layout of the ship is shown as Figure 15.⁶⁸

For guard duties, the troops were divided into three watches, each in the charge of a corporal.⁶⁹ Fatally, Minchin allowed the majority of foreigners to be grouped together in one watch for convenience of communicating orders in other than English.⁷⁰ Because they were only guarding women, sentries were armed solely with bayonets.⁷¹ They were posted 'One at the Main hatchway, one at the

⁶⁵ WO 71/184, p.25. Corporal Morrison believed the bulkhead was strong but the grating was capable of being pulled down by a number of soldiers.

⁶⁶ WO 71/184, p.6.

⁶⁷ GA Mawer, *Most Perfectly Safe The convict shipwreck disasters of 1833-42*, St. Leonards, 1997, p.5. Mawer wrote 'In the event of a mutiny, the Admiralty wants all of the armed force of the ship concentrated aft and its arrangements there are such as to create a small fortress.'

⁶⁸ GA Mawer, *Most Perfectly Safe*, pp.4 and 6, simplified.

⁶⁹ WO 71/184, p.5.

⁷⁰ WO 71/184, p.14.

⁷¹ WO 71/184, p.5.

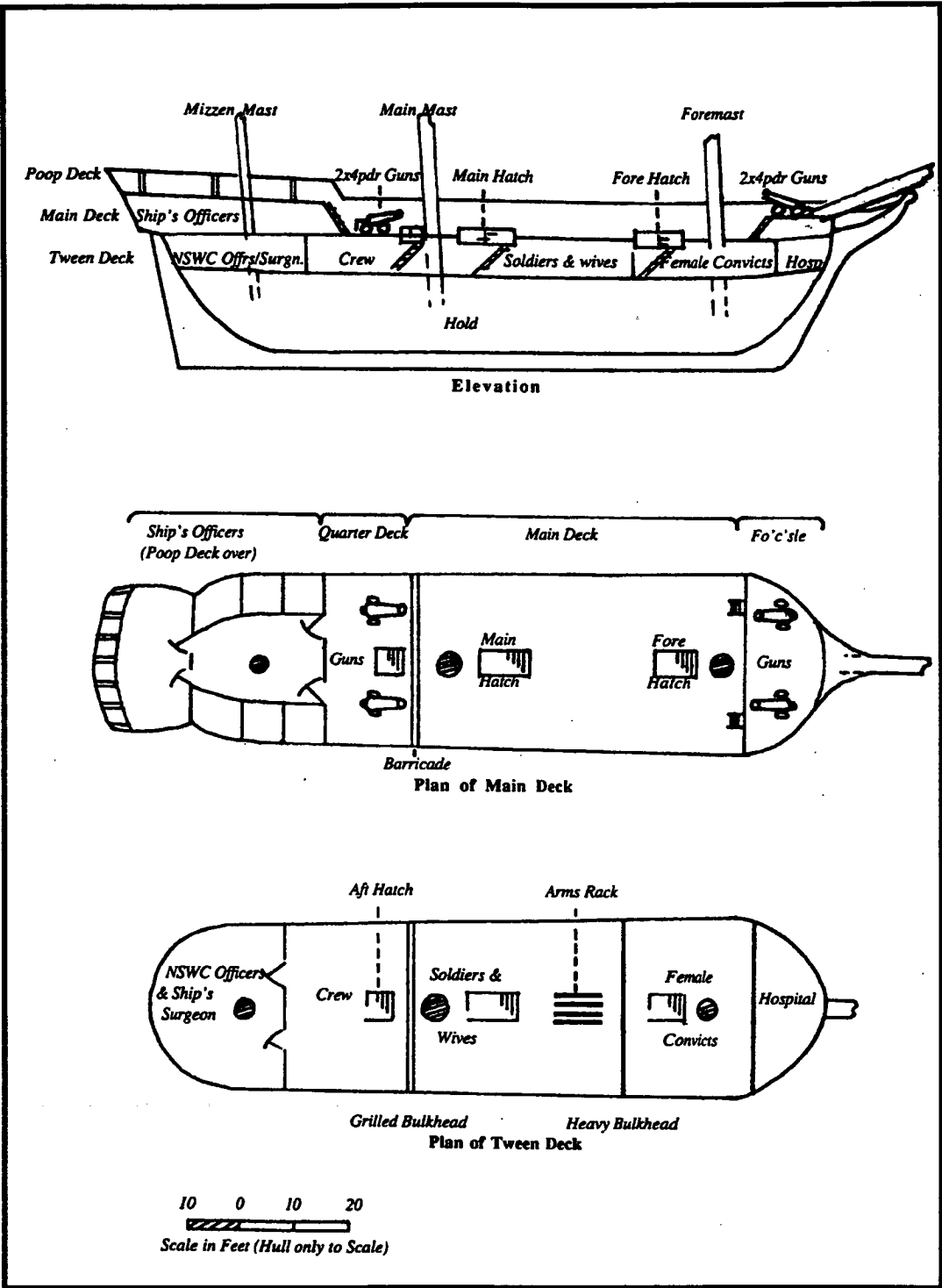


Figure 15: Approximate layout of *Lady Shore*, built 1793 of 316 tons

Based on the drawings of an 1805 convict transport of 330 tons, and written descriptions of the *Lady Shore*.

fore hatchway one at the great cabin [presumably on the 'tween deck], and another at the Wheel who assisted at the Wheel of the Ship.'⁷² Hughes stated that the remainder of the watch, not on sentry duty, stayed on deck, probably during the day, but apparently not by night.⁷³ Off duty soldiers were below, with their muskets in an arms rack in the troop compartment or 'clean Men kept them in their Birth'. A total of forty stand of arms was available to the troops on board, but some weapons were in an 'indifferent' condition.⁷⁴

Apart from the ammunition already held by the detachment, ball ammunition was issued to the troops when a sail suspected of being French or Spanish was sighted, and returned when the approaching ship was identified as non-belligerent. The ship's gunner was responsible to issue this ammunition from a ready locker and to count the returned rounds to ensure none were missing. Unfortunately, the control of this ammunition accounting was apparently poorly executed, as Sergeant Hughes later deposed, the gunner told him that ten or twenty rounds were missing about six weeks before the mutiny. Hughes also told the court martial that 'no search was made for it'.⁷⁵ In view of this small number of unaccounted rounds, it is surprising that after the mutiny started, when Hughes checked amongst the non-mutineers, they had a total of 'about thirty eight or forty rounds of Ammunition' in their possession 'that had been bought [issued?] at Falmouth'.⁷⁶ Before the mutiny, the conspirators were in possession of some ammunition as they fired a number of shots before they had time to seize ammunition from the ready locker. Purser J. Black, afterwards wrote:-

The soldiers also were permitted ... a considerable quantity of ammunition in their possession between decks: the mutineers acknowledged, that had it

⁷² WO 71/184, pp.4-5. Burns' evidence.

⁷³ WO 71/184, p.12. See below, footnote 99, for report of only four sentries and Corporal Spice being forced down the hatchway, while apparently the remainder of the watch were resting below. With reduced risk from carrying mainly female prisoners on *Lady Shore*, this would be reasonable. Even on a First Fleet transport carrying male convicts, Private Easty noted, that in the tempestuous Southern Ocean, only four sentries were required on deck by day, and when it rained at night, this number was reduced to two (see below, Chapter 2, p.43 and footnotes 124-125).

⁷⁴ WO 71/184, p.5.

⁷⁵ WO 71/184, p.13.

⁷⁶ WO 71/184, p.10, for the quantity of ammunition, and p.13 for 'bought at Falmouth'.

not been for this circumstance, they never would have attempted the seizure of the ship⁷⁷

Hughes' statement that ammunition was supplied at Falmouth is contradicted in statements by ship's officers. Murchison claimed that 'A days after' the chained ex-Savoy prisoners boarded *Lady Shore*, at Gravesend, they were issued with 'muskets, bayonets, and cartridge-boxes ... with ammunition in their boxes'.⁷⁸ As already noted, it was at Torbay that Captain Willcocks was assured by Grose that 'it was perfectly right' that the ex-Savoy soldiers were armed and in possession of ammunition. Such statements make it hard to understand why Hughes claimed that the ammunition was obtained at Falmouth, the ship's final port of call in England. Possibly the military, in retrospect, did not wish embarrassing evidence to come out at Minchin's court martial about his early and apparently generous ammunition issue to the future mutineers. Such an authorisation to issue ammunition to guard sixty-five female convicts appears indefensible.

Shortly after the disappearance of the ship's gunner's ammunition, and four to five weeks prior to the mutiny on 1 August 1797, an informer gave warning that conspirators 'either ... intended to take the Ship or would run away from her at Rio Janeiro'.⁷⁹ This warning was passed to Sergeant Burns by Corporal Thomrie's (elsewhere called Thierry) convict mistress who had been mistreated by Thomrie. Burns reported to Minchin, who questioned him on the reliability of the informer as she was a prostitute and drunkard. Burns considered that, as the soldiers were well behaved, he had no reason to believe her. Minchin spoke to the woman telling her 'to go about her Business as he would not believe any thing She Said'. He then sent for Thomrie and 'told him to keep her quieter in the Ship than she had been before'.⁸⁰ Hughes agreed with Burns that from the men's behaviour there was no indication of any likely mutiny, and endorsed Minchin's decision to leave security

⁷⁷ J Black, *An Authentic Narrative*, p.3.

⁷⁸ HRNSW, 3, p.413.

⁷⁹ WO 71/184, p.11.

⁸⁰ WO 71/184, p.6. Burns' account of Minchin's handling of informer.

arrangements unchanged.⁸¹ While Minchin and his sergeants remained confident there was no threat, a later revelation showed that this confidence was sadly misplaced. A disillusioned Frenchman, a year after the mutiny, wrote from his semi-captivity at Montevideo:-

Thierry [Thomrie] proved himself a coward at the [earlier preplanned] moment of the capture and had revealed to his English concubine the intentions of his companions to take over the ship, which led to the plan being postponed and prevented us from returning to Bordeaux⁸²

Had Minchin given cautious credit to the informer, upgraded security and searched for the missing rounds, as well as confiscating the 'Falmouth' ammunition, the whole sorry saga of mutiny and death would probably have been averted. Minchin's moral judgment on the female convict prevented an objective consideration of what she had to say.

Minchin deplored 'human depravity'⁸³ and his unbending adherence to his moral code may have had other unfortunate results. While the *Lady Shore* was still at anchor in Falmouth, civil courtesies were maintained between Minchin and Prater, as the army officers and Mrs Minchin messed together.⁸⁴ At some point during the voyage, due to Prater spending most of his time forward in the convict women's prison,⁸⁵ Minchin cut him off, not only socially,⁸⁶ but also illegally prevented him from exercising any military command function. Minchin issued strict orders to the other ranks to treat Prater as a 'passenger', and that Prater had no power of

⁸¹ WO 71/184, p.15.

⁸² J Guillou, *Capture Lady Shore*, p.97. From a letter to the *Directoire* in France, by Maillot, and counter-signed by Le Riche, Mallecotte and Prevost (elsewhere Prevot), of September 1798. In WO 40/16, frames 19-21, two of these names, are notated as 'A Mutineer' and identified as follows: Maillot as Le Mallio and Mallecotte as Mallicott. Prevost, a sailor joined the ship at Falmouth. Le Riche's name was probably one of the three obscured on WO 40/16.

⁸³ WO 71/184, p.28.

⁸⁴ HRNSW, 3, p.415. Murchison's report.

⁸⁵ WO 71/184, p.25. Corporal Morrison confirmed that Prater was 'frequently amongst the Women'.

⁸⁶ WO 71/184, p.26. Morrison stated Prater ate 'In the [his] Cabin'.

command over them.⁸⁷ Thereafter Prater was not consulted, or advised on any matters affecting the detachment, and was not shown any written 'orders issued for the Guards and Centries'.⁸⁸ As a result, Prater claimed that an opportunity was lost when he could have retaken the ship, except that he had no power of command.⁸⁹ The validity of Prater's claim of a lost opportunity was refuted by Minchin, and on the weight of evidence, is doubted by this writer.⁹⁰ Nevertheless, the illegal restrictions imposed on Prater for moral reasons, were operationally unsound. In fact, with Prater close to the convict women, had Minchin acted professionally, and dealt with Prater on strictly military matters, Prater may possibly have learned that the information given by Thomrie's mistress was correct.

While the conspirators had to abort the plot which they had hoped would take *Lady Shore* to Bordeaux, they continued scheming. Their later plan was put into operation four days out from Rio de Janeiro, in the dead hours before dawn, still universally recognised as the best time to surprise an enemy. At 4am on Tuesday, 1 August 1797, the mutineers struck in a methodically preplanned operation.⁹¹ This took place following the relief of Corporal Spice's watch by that commanded by Corporal Thomrie, in which 'the frenchmen were chiefly in'.⁹² As

Thomrie's watches contained all the foreigners including Lance Corporal Cripio, the

⁸⁷ WO 71/184, p.21. Prater's evidence. Minchin's order to the troops was illegal. Prater was posted to, and travelling on duty to the New South Wales Corps, in exactly the same way as Minchin. Therefore, if Minchin, as senior officer, wished to suspend Prater from duty, it was necessary for Minchin to lay a charge against Prater. For example, on *Barwell*, which sailed from England in November 1797 (see above, Chapter 6, p.148 and footnotes 104 for charges). The detachment commander, Ensign Bayly, placed his junior, Ensign Bond, in irons for the remainder of the voyage for being implicated in a planned mutiny. He was formally charged in Sydney.

⁸⁸ WO 71/184, p.23.

⁸⁹ WO 71/184, pp. 20 and 21. In cross examination by the court, Prater twice made this point.

⁹⁰ WO 71/184, p.27. Refuted because 'Prater was not brought down into the great Cabin until after the Mutineers were in possession of the ... [officers' and soldiers] Arms.'

⁹¹ C Bateson, *Convict Ships*, p.153, for location of *Lady Shore* at the time of the mutiny, and p.154 for 'Documents in French diplomatic archives indicate that the mutiny was carefully planned'. Military witnesses agreed on the time as about 4am. The ship's officers gave the time as about 4.15am, (*HRNSW*, 3, p.392). As 4am was the likely time of the change over of the watches, which preceded the mutiny, army witnesses would probably have remembered this time, whereas the ship's officers may have been more conscious that a little later they became actively involved.

⁹² WO 71/184, p.14. Hughes evidence. As an indication of how animosity against the enemy found its way into official documents; in Minchin's court martial, "frenchmen" was often spelt with a lower case "f", while "Englishmen" was always spelt with a capital "E".

mutineers had no difficulty in concentrating their force on deck, the only mutineers remaining below were probably Irish conspirators belonging to other watches.

As noted in the French archives, Guillou cites twelve key mutineers; eight Frenchman who 'conscripted', three Germans and one Spaniard.⁹³ Burns, Hughes and Morrison all stated in evidence that initially there were seventeen or eighteen soldier mutineers,⁹⁴ therefore over and above these twelve mutineers, the extra five men would have been either 'foreigners' from Spice's watch, who remained on deck when relieved, crew members, or Irishmen. Some of the latter, as Burns noted, were 'wringlesome' when drunk, therefore for security, and because they were in a different watch, the twelve key mutineers probably kept the Irishmen on the periphery of the plot until the mutiny occurred.

The preplanned positions taken up by the key twelve mutineers were:-

- One to guard the prison [presumably fore] hatch,
- Two to guard the main hatch to prevent non-mutineer soldiers gaining the main deck,
- Two to subdue the helmsman and sailors on deck watch,
- Two to secure the officer of the watch,
- Two to secure the officers quarters,
- Two to 'the captain's cabin',
- One to break open the ammunition and distribute rounds from the ready ammunition locker.⁹⁵

It is not known where the other five mutineers were deployed by Dubois, the ringleader,⁹⁶ certainly one or more Irishmen were stated to be guarding the main hatch.⁹⁷ It is a matter of speculation how the mutineers smuggled their muskets and cartridge boxes up from the troop compartment to the main deck without being

⁹³ J Guillou, *Capture Lady Shore*, p.92.

⁹⁴ WO 71/184, p.6, Burns - 'about seventeen'; p.13, Hughes - 'about 17 or 18 Soldiers'; p.25, Morrison - 'about 17'.

⁹⁵ C Bateson, *Convict Ships*, pp.154-155, for list, based on French documents. J Guillou, *Capture Lady Shore*, p.92, partially confirms this detail. He notes that Lambert was officer of the watch at the time.

⁹⁶ WO 71/184, p.9. Burns in this reference, amongst several others, confirmed Dubois' leadership. HRNSW, 3, p.397, for a manifesto signed by the successful mutineers on 2 August 1797, in which the following appointments were promulgated:- 'Deliz [Dubois], captain of the captured vessel, W.G. Thierry [Thomrie], lieut. on board the captured vessel, Le Maillot de Provencher, Secretary on board the captured vessel',

⁹⁷ WO 71/184, p.24. Morrison, for example, stated that Frenchmen and Irishmen were guarding the main hatch.

heard and challenged, either 'tween deck, or by Dutchman, Corporal Spice and those members of his watch who remained loyal to the British cause.

An analysis of the often conflicting witnesses' reports, yields the following sequence of events. Non-mutineers in Spice's relieved watch would have been startled in the predawn gloom by the sound or sight of the oncoming watch armed with muskets, but, presumably, would not have immediately raised an alarm in case some special orders had been issued for Thomrie's watch. Immediately after coming onto the main deck, the bulk of the mutineers would have loaded their muskets (within thirty seconds) while some fanned out to critical positions.⁹⁸ The most critical would have been the quarter deck, which dominated access from both the aft companionway and the ship's officers' cabins on the main deck. The main hatch would have been quickly secured by the mutineers even while loading their weapons. Four English soldiers, acting as sentries at the time their watch was relieved, were forced down the main hatch ladder, with one of these men receiving a sword or bayonet wound in his back.⁹⁹ Spice, who probably was already at the foot of the ladder, tried to climb up again, but was knocked down by an empty cask, injuring his foot.¹⁰⁰ Morrison stated he was wakened by a 'scuffle' on deck which would have been Spice and the four Englishmen being bundled below.¹⁰¹

Meanwhile, on the quarter deck, First Mate Lambert, the officer of the watch, saw or sensed that a mutiny had broken out, and probably glimpsed figures running towards him. He retreated to his cabin and seized his loaded pistols. Later he was criticised by the ship's officers, for not raising an alarm before retreating to his cabin.¹⁰² Bearing in mind it would have been less than thirty feet from the head of the main hatch ladder to the quarter deck,¹⁰³ it is considered that this criticism is

⁹⁸ J Black, *An Authentic Narrative*, p.4. Recorded 'Lambert ... saw the men loading their muskets, and making other preparations'.

⁹⁹ WO 71/184, p.5. Burns stated at the time of the mutiny 'four Englishmen' were sentries.

¹⁰⁰ WO 71/184, p.3. Burns stated Spice 'was wounded in the foot'.

¹⁰¹ WO 71/184, p.24.

¹⁰² HRNSW, 3, p.392, for ship's officers criticism.

¹⁰³ GA Mawer, *Most Perfect Safe*, p.6. The measurement on Diagram 15, from the forward edge of the main hatch to the centre of the quarter deck is 24-25 feet.

unjust. Despite the mutineers having to scale the barricade, Lambert would have had insufficient time to ring the ship's bell, blow a fog horn, or (as suggested later by the ship's officers) wake 'the captain and officers', before the mutineers were on him. Further, the statement by the ship's officers that Lambert 'went into his cabin and loaded his pistols' is highly improbable.¹⁰⁴ Such a time delay is not consistent with the remainder of the officers' report that 'the mutineers immediately ... surrounded the doors and windows. He [Lambert], seeing this, fired his pistols'.¹⁰⁵ These were the first shots fired. Now, with no further need to move stealthily, the mutineers shouted their attack signal *Vive la Republique*'.¹⁰⁶ From 'tween deck, Burns heard the sound which:-

very much surprized [him] by hearing a Musquet Shot, with that I arose and heard a great clashing of Arms upon the Decks and the Frenchmen at all parts of the Ship crying out *Vive La Liberte*¹⁰⁷

The loud war cry, combined with much noise following the mutineers' initial silent assault, would have been intended to shock and confuse their numerous wakening opponents.

'Tween deck, the non-commissioned officers, Hughes, Burns and Morrison, in the confusion, tried to assess the situation. Burns went to the foot of the ladder and was warned by a mutineer sentry that if he attempted to resist they would instantly blow out his brains.¹⁰⁸ At the same time, from a dalliance in the women's prison, Prater attempted to climb the fore hatch ladder but was ordered below by a mutineer. He then called to the sergeants, through the bulkhead, to see 'if there were any Means of getting through to assist in retaking the Ship.' As no axe was available to hack down the barrier, Prater was trapped in the prison until about 7.30am, when he was 'ordered upon Deck and escorted to the Companion Ladder in the great Cabin where I found Captain Wilcox ... dangerously wounded.'¹⁰⁹

¹⁰⁴ C Bateson, *Convict Ships*, p.153. This comment is repeated by Bateson. J Guillou, *Capture Lady Shore*, p.92; does not substantiate this. He notes Lambert 'rushed to his cabin to seize his pistol. Followed by the mutineers, he [Lambert] fired through the doorway'.

¹⁰⁵ HRNSW, 3. p.392. Ship's officers' account of quarter deck happenings.

¹⁰⁶ J Guillou, *Capture Lady Shore*, p.92.

¹⁰⁷ WO 71/184, p.3.

¹⁰⁸ WO 71/184, p.3.

¹⁰⁹ WO 71/184, p.18; Prater's evidence.

When Lambert fired his pistols, he fatally wounded a mutineer sailor named Delahay.¹¹⁰ In return, 'several musquets were then fired into his cabin thro' the windows, and they immediately charged upon him with their bayonets'. Lambert, now wounded, escaped through the interior door of his cabin into that of Purser Black, which was adjacent to the captain's. Lambert and Black attempted unsuccessfully to gain entry to the captain's cabin, and while doing so Lambert received another shot in the back. With this getaway blocked, and fire still being delivered into the cabin, Black cut through a canvas screen dividing his cabin from the 'cuddy' (the central space between the cabins which were on either side of the ship). In trying to escape to the cuddy, Lambert was wounded a third time. Meanwhile, the captain ran from his cabin and was bayoneted below the heart by a sentry at the door leading onto the quarter deck. Willcocks lurched forward towards 'the after hatchway, down which he fell, and ... received a[nother bayonet] wound in the neck.' A shot fired at Willcocks missed. Lambert, now in the captain's cabin, was shot by a mutineer and died a few minutes later. The mutineers on the quarter deck moved to position themselves with four men with fixed bayonets guarding the after hatch and with one at each of the ship's officers' cabins. After this tense and confused few minutes, all effective resistance ceased.¹¹¹

With at least nine shots being fired on the deck above Minchin's head,¹¹² the ship's officers later inferred that Minchin remained hidden in his cabin. They wrote that the noise of Willcocks' fall down the ladder 'awoke Mr. Minchin ... who called out to know what was the matter ... Captain Willcocks, in a faint voice, [said] that he was wounded, and his [Minchin's] men had seized the ship.'¹¹³ This account is

clearly biased, possibly recounted by some of the sailors, now isolated in the

¹¹⁰ J Guillou, *Capture Lady Shore*, p. 92. Delahay was a sailor. This is apparently confirmed, as no similar name, is listed in detachments' nominal roll (WO 40/16, frames 19-21).

¹¹¹ HRNSW, 3, p.392. Narrative as written by the surviving ship's officers.

¹¹² The following rounds were reportedly fired: two pistol shots by Lambert, two musket shots into Lambert's cabin, one shot when Lambert was again wounded attempting to enter the master's cabin, two shots delivered into the purser's cabin, one shot down hatch at already wounded Willcocks and one fatal shot which killed Lambert. Probably more than nine shots were fired during the melee.

¹¹³ HRNSW, 3, p.392.

steerage compartment as the only ship's officers 'tween deck were the badly wounded master who died two days later,¹¹⁴ and Surgeon Fyffe. Describing the same incident at the Public Office, Bow Street, in December 1799, in evidence against a captured mutineer, Minchin stated 'he was awoke by a disturbance ... on which he got up, and at the bottom of the ladder saw Capt. Wilcocks lying bleeding'.¹¹⁵ This is believable, as by the time Minchin awoke and realised something was amiss, then reached the foot of the companionway ladder, the wounded Willcocks could have just fallen there. Minchin confirmed the conversation with the wounded Willcocks, reported by the ship's officers, except this took place at the bottom of the ladder, and *not* with him hanging back in his cabin.

Minchin did not waste time, he 'assisted Capt. Wilcocks to his [Minchin's] bed'¹¹⁶ and then hurried forward to make contact, through the dividing grating, with his non-commissioned officers. Burns in sworn evidence stated that 'Mr. Minchin came to me to the Gratings [and asked questions] ... instantly after the Mutiny took place'.¹¹⁷ This timing is not confirmed by Hughes who stated he spoke to Minchin at the grating, giving details of arms and ammunition held in the soldiers' compartment, and then Minchin ordered him to surrender these armaments.¹¹⁸ From other evidence by Hughes, cross referenced to timing of events in other non-commissioned officers' statements, it is considered that Hughes compressed together his report to Minchin and the later order to surrender. The ship's officers also compressed the time scale of events. Their account inferred that shortly after Willcocks' words with Minchin, the latter gave up 'his sword and pistols, and [proceeded] to order the soldiers to deliver up their arms, which was immediately done'.¹¹⁹ From army witnesses, it was established that in fact four hours elapsed

¹¹⁴ *HRNSW*, 3, p.393. Willcocks died at about 4am, 3 August 1797, forty eight hours after the mutiny. Several witnesses, including Minchin at Bow Street, stated that he was lucid for much of this time.

¹¹⁵ *Times*, No.4658, London, 5 December 1799, p.3, d.

¹¹⁶ *Times*, No.4658, London, 5 December 1799, p.3, d.

¹¹⁷ *WO 71/184*, p.7.

¹¹⁸ *WO 71/184*, p.10, repeated p.12.

¹¹⁹ *HRNSW*, 3, p.393.

between the start of the mutiny and this final surrender.

In the confusion 'tween deck with the sounds of the mutiny above, the non-commissioned officers struggled to clarify the existing situation, finally ascertaining that about seventeen men were missing, who should have been below.¹²⁰ On hand in the troop compartment were twenty-eight stand of arms and thirty-eight to forty rounds of ammunition. Therefore, the mutineers were in possession of twelve muskets, plus bayonets and ammunition boxes.¹²¹ As well as the mutineers on deck, both Hughes and Burns believed that there were some 'Suspicious People [Irishmen]', still in the troop compartment awaiting the opportunity to join their comrades on deck, and that these men acted as 'spies all around us'.¹²² The sergeants were proved correct and when the Irishmen were freed, they joined the mutineers. Now, with the addition of some sailors, the mutineers final strength was twenty-five.¹²³ Hughes appealed to Burns to help retake the ship but the latter 'refused, as he thought it was of no use as the ablest Men were on Deck amongst the Mutineers'.¹²⁴ Hughes believed he could have been successful except that the recruits in the troop compartment were 'chiefly Boys[.] I could have shot all the Centries myself at the hatchway, but the Men [Irish conspirators] below would have killed me'.¹²⁵ Morrison, in reply to a question by the court, whether he believed it would have been possible to retake the ship stated:-

It might at first if the Men below had all been willing the Question was put by Serjeant Hughes, and I did not hear any of them offer their Service, a great Quantity of them appeared to be very glad that the Ship was taken¹²⁶

Morale among the defenders, must have been low at this moment, as militarily this would have been the best time to have launched a successful counter-

¹²⁰ WO 71/184, pp.3-4.

¹²¹ WO 71/184, p.10. As already established (by Burns' evidence, p.5) a total of forty stand were available on board for the guard of which the mutineers seized twelve stand.

¹²² WO 71/184, p.10, for Hughes's 'Suspicious People' and p.7 for Burns' 'spies'.

¹²³ WO 71/184, pp.6, 13, 20 and 25. All witnesses at Minchin's court martial agreed on this number.

¹²⁴ WO 71/184, p.10.

¹²⁵ WO 71/184, p.13.

¹²⁶ WO 71/184, p.25.

attack, before the mutineers stabilised their hold on the main deck. It is considered that had Prater been aft in his cabin, he could have quickly responded to the emergency by firing at mutineers, as Lambert did. This would have galvanised the loyal soldiers to support the pugnacious Sergeant Hughes in organising resistance in the troop compartment, including breaking out of that area into the steerage section of the 'tween deck.

Despite pessimism and confusion 'tween deck, equal confusion and doubts would have reigned on the main deck, as the mutineers tried to consolidate their position, wondering what counter strikes were about to be launched against them, and whether their comrades, still below, had been seized. One mutineer was dead or dying, seven armed men were involved in the quarter deck area, leaving four armed men, and the Irishmen probably still with only knives or cudgels, to support them in defending the main and fore hatches. Not all the mutineers' muskets would have been reloaded following the melee in the officers' cabins, temporarily limiting their firepower.¹²⁷ Excluding any pistols issued to non-commissioned officers,¹²⁸ the loyal soldiers had an overwhelming advantage of twenty-eight muskets to twelve, and also superior numbers to serve these weapons. More ammunition and arms bound for New South Wales were available in the hold as soon as the troops broke out of their compartment. A measure of the mutineers confusion is that it was not until 5am that the gratings over the main and fore hatches were battened down and four four-pounder cannon were loaded with shrapnel and trained on the main

¹²⁷ JF McMahon, 'The British Army and the Counter-Insurgency Campaign in Van Diemen's Land with Particular Reference to the Black Line', Hobart, unpublished MHum Thesis, University of Tasmania, 1995, p.15. A trained soldier in battle could reload and fire his musket two to three times per minute. It is considered that in the first confusion of the mutineers securing the main deck, and having fired at least seven shots, it was probably some minutes before all their muskets were reloaded. Then or later, had the soldiers engaged in a fire fight with the mutineers, every time the latter fired a shot they would have been temporarily denied one twelfth of their firepower. The soldiers had an additional advantage, they could have sniped at the silhouetted mutineers at the top of the hatch from the concealment of the darkness surrounding the bottom of the ladder. This sniping could have provided protective fire while other soldiers broke down the grating through to the aft compartment. Thereafter, with the 'small fortress' now opened up, rations, bulk water and the magazine in their possession, the soldiers would have been well placed to defeat the mutineers.

¹²⁸ *Times*, 28 November 1799, p.3, b. Prater stated that he was prevented from climbing the fore hatch ladder by 'one Cripson [Lance Corporal Cripso] ... who presented a pistol'.

hatch.¹²⁹ In Burns' opinion, 'from that time it was never in our power to resist.'¹³⁰ But, with determined leadership until 'Day light in the Morning about 6 O'Clock',¹³¹ the loyal soldiers had the advantage of darkness, plus the grating over the hatch obscuring the mutineers view, to help shield them from aimed fire from the skylighted mutineers, while organising an assault up the aft ladder. Deprived of leadership from their detachment commander, the soldiers, lacking morale and a will to fight, allowed the mutineers to hold *Lady Shore* in the face of superior numbers.

Theoretically, the numbers available to Minchin to organise a counter-attack, should have included the majority of the crew, now isolated with Minchin in what should have been the "aft fortress". They could have been harnessed to break down the grating partition while the soldiers provided covering fire directed upwards towards the main hatch. Other crew could have guarded the aft ladder, initially using Minchin's and probably the absent Prater's weapons, until arms could be loaded and passed to the crew as they opened the grating. Instead, the crew made no move to help - demonstrating a natural prudence, justified by the soldiers failure to organise a defence. There was a further reason why the crew did not support Minchin. Murchison stated that Minchin had been 'offended' by the convict women passing his cabin to visit the sailors in steerage. Minchin, by threatening the master that the labour of his troops would be withdrawn from ship board tasks, had had the women banned and the master agreed to a sentry being placed over their prison to prevent access to sailors except 'only on duty'. This action did not endear Minchin to the crew, and in retaliation, in Murchison's opinion, this influenced the crew's apathetic attitude to the mutiny going on around them. To complete the damming of Minchin, Murchison reported:-

It would have been impossible for the Frenchmen to have kept the ship many hours had not Mr. Minchin ... called out to his men to make no resistance, and give up their arms, which was done before daylight.¹³²

This statement as to time of surrender, and the possibility of retaking the ship, was

¹²⁹ WO 71/184 , p.20.

¹³⁰ WO 71/184, p.4.

¹³¹ WO 71/184, p.24.

¹³² HRNSW, 3, p.415.

contradicted (as discussed below) in evidence during Minchin's court martial.

After the gratings were secured over the other hatches, the mutineers still did not attempt to force their way below, via the aft ladder. This was guarded by Minchin armed with his pistols and sword, and no doubt Prater's pistols as well. Through the grating at daylight, Morrison confirmed he saw Minchin 'standing by his Cabin Door with his sword in his hand by the foot of the [aft] Ladder'.¹³³ His presence may also have dissuaded any mutinously inclined sailors in steerage from slipping up to join the conspirators. From 5am until about 8am, there was a stand-off, then Minchin, presumably in response to mutineers' threats and demands, surrendered his weapons and ordered the soldiers to do the same. Thereafter, apart from the main hatch grating being lifted to collect the troops' weapons, and allow the four mutineers below to join their comrades, the soldiers' compartment was now their prison.¹³⁴ The soldiers, with the exception of the non-commissioned officers, who on 15 August, were cast adrift with others in a long boat, remained imprisoned below until *Lady Shore* reached Montevideo on 28 August 1797.¹³⁵

The actual time, and the circumstances, of Minchin ordering the soldiers to surrender their weapons are subject to conflicting evidence. Prater claimed that, at 7.30am under guard, he was escorted by the mutineers from the women's prison to the great cabin. Then 'About 8 O'Clock the Mutineers came down into the great Cabin and demanded our Arms which were given them'. Prater stated Minchin then gave orders to Hughes to surrender the troops' arms and 'not to make any resistance'.¹³⁶ Up to the time of the surrender of the arms, Prater somewhat reasonably considered that resistance was possible because 'we had Possession of

¹³³ WO 71/184, pp.24-25.

¹³⁴ WO 71/184, p.10. Hughes stated 'the Mutineers were joined by four of the People whom I thought were suspicious'. Barnes (p.4) and Hughes (p.11) both stated they 'remained' imprisoned below until ordered into the long boat. To maintain maximum security, the mutineers would have kept the remaining soldiers below, allowing minimum deck exercise. One or two of the officers at a time had 'Liberty to walk the Quarter Deck' (p.19, Prater).

¹³⁵ WO 40/16, frame 20. As one soldier, William Batt, not a mutineer, 'Fell overboard & drowned, 8th Augt. 1797', apparently a few soldiers had been allowed on deck for exercise. J Guillou, *Capture Lady Shore*, p.96, for arrival date.

¹³⁶ WO 71/184, p.18.

the Magazine and were a stronger force'.¹³⁷ Conversely, Minchin asserted that it was only after he surrendered that Prater was escorted aft by the mutineers. It is considered that Minchin's version is probably correct as it is unlikely that the mutineers would have allowed Minchin the benefit of a reinforcement in his isolated situation before he surrendered. Prater in fact confirmed this in cross examination. In reply to the court's question, 'In what Situation was Mr. Minchin when you first saw him after the Ship was taken?', Prater replied 'He was in the great Cabin a Prisoner'.¹³⁸

It is not known whether external pressure, or simply the council of his own fears, finally led Minchin to surrender his weapons. Given the frightening charade, from 10am until noon that day, inflicted on a now ironed Hughes, waiting to be hanged, for 'attempting to retake the Ship',¹³⁹ it is possible that psychological pressure may have been applied to induce Minchin to let the mutineers descend the aft ladder, making him their prisoner. It was then inevitable that the soldiers would in turn be ordered by Minchin to surrender. To support the suggestion of the mutineers' use of psychological pressure, the ship's officers recorded that the mutineers 'informed all those who were between decks that if any person attempted to make the least resistance a general massacre would take place'.¹⁴⁰ Also, later in their captivity, an overnight charade was played out, with Prater being told he would be hanged in the morning, for talking to some of the crew about retaking the ship.¹⁴¹

There is no doubt that after *Lady Shore* was seized, the mutineers relied on fear as well as force to keep control over the soldiers and crew. This state of affairs lasted until the evening of Monday 14 August 1797. Then, of those who remained loyal to the crown, twenty-nine persons, including the ship's and military officers, British non-commissioned officers, some soldiers, their respective wives and

¹³⁷ WO 71/184, p.19.

¹³⁸ WO 71/184, p.21.

¹³⁹ WO 71/184, p.11.

¹⁴⁰ HRNSW, 3, p.393.

¹⁴¹ WO 71/184, p.19.

children, and the convict Major Semple, were cast off in the ship's long boat.¹⁴² In bad weather, they were fortunate in making landfall at the Rio Grande after forty-six hours. Then they traversed a long and complicated route to Rio de Janeiro,¹⁴³ and ultimately to England. Here, Minchin was court martialled in July 1799 and found not guilty.¹⁴⁴ Lieutenant Prater, now of the 60th Regiment, was found by the court 'to have been actuated by a considerable degree of Malice towards ... Minchin'.¹⁴⁵ While Prater never reached New South Wales, somehow Purser John Black arrived in the colony with enough promptitude to receive, from Governor Hunter, a lease in Sydney Town in March 1799.¹⁴⁶ Ensign Minchin and Sergeant Hughes arrived in the colony in *Royal Admiral*, on 20 November 1800. During this voyage, the still pugnacious Hughes remained intractable, and as noted in Chapter 6, was court martialled in Sydney, reduced to the ranks and sentenced to five hundred lashes.¹⁴⁷

While the survivors in the long boat headed for friendly Portuguese Brazil, *Lady Shore*, flying the French tricolour, proceeded southward towards a supposedly safe haven in the South American colonies of Spain, then France's ally. In addition to the few crew who had joined the mutineers, the remainder appeared unconcerned

¹⁴² J Black, *An Authentic Narrative*, p.19. The same date is accepted by Bateson (p.156) and Guillou (p.95). In evidence, Prater (p.19) stated the long boat was cast off on 15 August. The mutineers would not allow the ship's surgeon to leave in the long boat. Why Corporal Spice did not accompany this group is not stated.

¹⁴³ C Bateson, *Convict Ships*, p.156. J Black, *An Authentic Narrative*, pp.19-23, for dangerous voyage in the long boat to shore, and pp.30-49 for adventures of various survivors who reached Rio de Janeiro by land and sea. Black arrived there on 19 November 1797, p.49.

¹⁴⁴ WO 4/845, p.79. Letter of 18 June 1799, to Military Secretary to HRH, Commander-in-Chief, that 'a warrant will be prepared & laid before the King ... for the trial of Ensign & Adjutant Minchin'. WO 71/184, p.28, for not guilty.

¹⁴⁵ WO 71/184, p.29, for court's rebuke of Prater.

¹⁴⁶ HRNSW, 4, p.44, from a tabulated list of grants.

¹⁴⁷ WO 4/845, p.83. Letter to Commissioner of Transport, of 1 March 1800, requesting passage for Minchin and his wife on *Royal Admiral*. As Hughes was not a completely friendly witness at Minchin's court martial, it is speculated whether animosity between the two, on board *Royal Admiral*, contributed to Hughes' court martial on arrival in Sydney.

as to who gave them orders and continued to work the ship,¹⁴⁸ no doubt encouraged by the incentive offered that 'they should receive a gratuity according to their behaviour on their arrival at Rio de la Plata'.¹⁴⁹ However, on arrival at Montevideo, Uruguay, the hopes of both the mutineers and crew were dashed, for the provincial governor, despite his nation's alliance, seized the ship for personal gain. Only Citizens Dubois and Thierry, who had forgotten their republican principles, managed to avoid punitive treatment and lived comfortably on loot stolen from *Lady Shore*. The other mutineers 'were placed under [harsh] house arrest'. It took considerable diplomatic manoeuvring from Paris to finally get the ill-treated mutineers released by their allies and returned to France.¹⁵⁰ While at Rio de Janeiro, Black noted that a letter was received from the Spanish Governor at Montevideo, advising 'the men found on board were in confinement'. He also learnt later, that of the female convicts 'only the *pretty girls* [his emphasis] are in burghers' houses, the rest are in prison.'¹⁵¹

Of the mutineers who returned to France, at least two, Jean Prevot and Jean-Baptiste Eseula or Deseala,¹⁵² returned to sea in a French corvette, and were later captured in the West Indies by a British frigate.¹⁵³ They were recognised and charged. Thanks to Prater's evidence, Eseula was found to have been 'forced into the mutiny' and subsequently gave evidence against Prevot.¹⁵⁴ The latter was

¹⁴⁸ HRNSW, 3, p.394. The ship's officers wrote 'the sailors ... seemed to obey all orders given by the ringleaders of the mutiny with much more alacrity than they formerly did those of the captain and officers'. WO 71/184, p.15; for Hughes' comment that the seamen obeyed the mutineer officers, Dubois and Thomrie, as 'they made them do it, they kept Liquor from them'. Burns agreed that 'the Sailors were disaffected and glad of the Mutiny'. He said that afterwards, they were 'as chearful [sic] as ever' (p.9). He also noted (p.6) that two Frenchmen in the crew joined the mutineers, probably Prevot and Delahay (shot by Lambert), with others under pressure to join later.

¹⁴⁹ HRNSW, 3, p.393.

¹⁵⁰ J Guillou, *Capture Lady Shore*, pp.96-98.

¹⁵¹ J Black, *An authentic Narrative*, p.35, and footnote for females.

¹⁵² *Times*, London, of 28 November 1799, p.3, d, for names of French prisoners, '*Jean Provot* [also Prevot] and *Baptiste Eseula*' (*Times* italics) and report of their examination at the 'Public Office, Bow Street', including evidence by Prater. *Times*, 5 December 1799, p.3; for *Jean Baptiste Deseala*. No name in the Corps' detachment approximates that of 'Eseula' or 'Deseala' [WO 40/16, frames 19-21]. As he, like Prevot, returned to sea, he was probably a sailor.

¹⁵³ *Times*, 28 November 1799, p.3, d, for recapture.

¹⁵⁴ *Times*, 28 November 1799, p.3. d. Prater's evidence regarding Eseula. *Times*, 5 December 1799, p.3. Deseala [Eseula] 'corroborated' evidence against Prevot.'

convicted of the 'wilful murder of William Wilcox on the high seas ... and [was] adjudged to be hung by the neck until he should be dead, and his body afterwards dissected and anatomised'.¹⁵⁵ Prevot was executed on 23 December 1799.¹⁵⁶ Even as late as 1805, correspondence to and from Whitehall was being carried on concerning 'four men who were taken onboard the [unnamed] Spanish Frigate and were part of the the Crew of the Lady Shore'. They were later cleared of the accusation, but this demonstrates that British memory was long when it came to apprehending maritime mutineers.¹⁵⁷

The remainder of the soldiers and crew of *Lady Shore* continued as prisoners of war in 'Bunos Ayres' [Buenos Aires, Argentina] until advice of the signing of Peace of Amiens of March 1802 was received, and acted on in Spanish South America,¹⁵⁸ after which, the survivors made their way back to England.¹⁵⁹ Surprisingly, after flying the Spanish flag, *Lady Shore* also made her way back to England, with the press reporting in July 1801, that she was 'recaptured, and carried

¹⁵⁵ HO 77/7, *Newgate Calendar December 4 1799*, for examined. HO 77/7, *Middlesex Prisoners upon Orders, Number 143*, for sentence. Microfilm supplied by Mr RW O'Hara, from PRO Kew, courtesy University of Tasmania.

¹⁵⁶ *Times*, No.4672, of 21 December 1799, p.3, d, for an account of the trial, at the Admiralty Session of the Old Bailey on 20 December 1799. Justice was swift, on Friday, 'Sir Wm. Scott then passed sentence on the prisoner; that he be hanged on Monday next' - 23 December 1799. In Minchin's reexamination, he indicated Prevot was a sailor and not a soldier of the New South Wales Corps. Minchin stated 'the prisoner had voluntarily entered on board the ship at Falmouth, previous to her sailing'. This is the only time that it was asserted that Prevot was not a soldier. Care must be exercised with this article as either the *Times* reporting, or Minchin's evidence, was erratic. For example, it was recorded that the mutiny took place 'on the coast of Africa [emphasis added]' and also 'when he [Minchin] got up to see what was the matter he found *the hatchway battened down* [emphasis added], and at the same moment saw Captain Wilcox ... lying wounded at the bottom of the ladder'.

¹⁵⁷ AJCP, reel 1164, *Admiralty - Entry Books General 1803-1810*, HO 29/5, pp.102-103. Letters by Home Office Secretary J. King of 1 January 1805, and of 15 February 1805, for suspected men not implicated.

¹⁵⁸ WO 40/16, frame 32. Recorded in a letter from 'Army Depot Isle of Wight' of 10 October 1802, that Corporal Spice and seven men had been held 'in South America where they remained Prisoners of War 'till Sept 1801'. Why these eight men were released before the Peace of Amiens is not recorded. The purpose in raising the file 'W.O. *Unnumbered Papers 1802 (B)*, designated WO 40/16, was to firstly establish whether these men had been mutineers, and secondly, if not, to process their claims for back pay.

¹⁵⁹ WO 40/16, frames 19-21, against individual names of men was notated those who died in 'Bunos Ayres'. Totals were:- one died in 1798, three in 1799, three in 1804 including two mutineers, and another 'Died on Passage home from Bunos Ayres 1804'.

into the Cape of Good Hope, by His Majesty's ship *Tremendous*'.¹⁶⁰

Histories of early Australia tend to look inwards and ignore the wider imperial picture which was a constant colonial backdrop. The mutiny on *Lady Shore* is a reminder of the diversity of imperial factors which impacted on the colony. That the incident was singular, and hence atypical of convict transports on passage to the colony, does not negate the value of studying this mutiny. In comparison, much ink has been devoted to other atypical mutinies such as the Castle Hill uprising of 1804, the New South Wales Corps' insurrection of 1808 and the Eureka Stockade.

The mutiny on *Lady Shore* illustrated recurring weaknesses in the New South Wales Corps, where officers lacked resolute leadership in controlling unruly, and at times unreliable, soldiers sent to the colony during wartime. This mutiny showed how a determined minority of insurgents could achieve success when faced by a commander who lacked, what Field Marshal Montgomery described some centuries later as 'that moral courage, that resolution, and that determination which will enable him [the leader] to stand firm when the issue hangs in the balance'.¹⁶¹ Minchin failed to either prevent or quash the mutiny, yet he still managed to exonerate himself at his court martial, which at the same time censured Prater who was not on trial. Finally, as Minchin occupied a key colonial posting as adjutant of the New South Wales Corps, his apparently evasive nature should be borne in mind in considering his central role in other questionable activities by officers of the Corps, particularly the rebellion against Bligh in 1808.¹⁶²

¹⁶⁰ HRNSW, 4, p.443 and footnote. That *Lady Shore* was twice captured by the French, then sailed under Spanish colours, yet finally returned to England, appears an extraordinary chain of events.

¹⁶¹ Montgomery of Alamein, *A Concise History of Warfare*, London, 1972, p.13. An extract of his views on leadership, which equally applied in the 18th as well as the 20th centuries.

¹⁶² At Johnston's court martial (see below, Chapter 11, pp.287-288 including footnote 87), Minchin's evidence is more than evasive, it is shifty, including deliberate lying under oath.

Chapter 8

The Corps in the Colony

Reference has been made in previous chapters to administrative problems which impacted upon the New South Wales Corps, such as recruiting, discipline and leadership. This chapter will consider several colonial incidents in which members of the Corps were involved, and analyse the relationship between the military power and the naval governors representing the civil power, who ultimately relied on the military for their authority and survival. The question arises whether this often uneasy relationship in any way weakened external or internal security in the colony.

Tensions between naval governors and senior military commanders, who were also appointed lieutenant-governors, commenced early in the colony's history. In October 1792, disregarding Phillip's disapproval, Major Grose arranged for a returning convict transport, *Britannia*, to be hired by the civil and military officers in the colony to obtain 'necessities of my soldiers ... [that] will assist us to escape the miseries of that precarious existence we have hitherto been so constantly exposed to.' Grose's rationale that the soldiers 'had scarcely shoes to their feet ... [and had] reduced and unwholesome rations' was a thinly disguised excuse to mount a trading venture.¹ Phillip's response exposed the falsity of this excuse. He wrote to Grose, there was 'no necessity for taking up the *Britannia*, nor can I form any judgment how far that ship's going to the Cape will do away all the distresses you have mentioned'. Nevertheless, Phillip did not order the abandonment of this project as

¹ *HRNSW*, 1, Pt.2, p.652. Grose to Phillip of October 1792, requesting the governor 'will interest yourself in our favour'. Two days before, Grose had verbally raised the proposal with Phillip, who opposed the idea.

the actions of the ship's master 'did not by any means depend on me'.² On this note of strong disapproval from his superior officer, Grose took the initial step in organised trading by the civil and military officers.³ This was the genesis of commercial ventures by officers, whose increasing wealth from land grants, led to the formation of powerful trading cliques after Phillip returned to England.⁴ Grose and the military then controlled the colony, and Phillip's unique style of civil government, with no concessions made to any groups, including the military, ceased.

Between Phillip's departure and Hunter's arrival, the military administered the colony for three years. Lieutenant Governor Grose took over from Phillip in December 1791 and administered the colony until his own departure in December 1794. After Grose's departure, the duties of governor devolved onto the next most senior military officer, Captain William Paterson, who remained in that post until Governor Hunter's arrival in September 1795. These three years overlapped with the first years of Britain's involvement in the French Revolutionary Wars, from February 1793, and the subsequent disastrous performance of British arms on the continent of Europe.⁵ The Secretary of State for War (and later, the Colonies) had little time, or inclination, to closely oversee how a relatively junior officer, commanding a small garrison in a penal colony, carried out his duties. As there was no obvious threat to its external or internal security, there was no reason for the Secretary to be concerned over "Botany Bay". The war and geographic isolation of

² HRNSW, 1, Pt.2, pp.652-653. Phillip to Grose of same date.

³ D Collins, *An Account of the English Colony in New South Wales*, Christchurch, undated, p.157. Eleven shares each of £200 were subscribed by officers to mount the venture.

⁴ BH Fletcher, *Landed Enterprise and Penal Society A History of Farming and Grazing in New South Wales Before 1821*, Sydney, 1976, pp.62-64. Grants applicable to both civil and military officers, p.62.

⁵ C Barnett, *Britain and Her Army 1509-1970, A Military, Political and Social Survey*, Harmondsworth, Pelican 1974, pp.234-238, for campaign in Flanders and Holland. Contributing problems being: 80,000 men died, killed or disabled in the West Indies from 1793-1796, p.234, and poor officer quality due to purchase system, pp.236-237. RE and TN Dupuy, *The Collins Encyclopedia of Military History From 3500 B.C. to the Present*, London, 4th ed. 1993, pp.742-744, for execution of Louis XVI in 1793 and failure of Monarchist forces, supported by British and Spanish navies, to withstand a Republican army at siege of Toulon; British Army's withdrawal from Europe in 1794 and abortive landing at Quiberon, 1795, failure of Vendee rising, p.745-746.

the colony, ensured the Corps a free hand.⁶

Immediately upon becoming Administrator, Grose ordered that military officers instead of magistrates would dispense justice.⁷ This concerned Deputy Judge-Advocate Collins who recorded:-

substituting the military for the civil officer, which before this period had never been the case; the military power having hitherto been ... [responsible] for the protection of the stores, and ... such duties as belonged to their profession, without any share in the direction of the colony; ... [T]he necessity or cause for these alterations was not directly obvious; and could not be accounted for from any other motive, than that preference which a military man might be supposed to give to carrying on the service by means of his own officers, rather than by any other.⁸

This one order placed the colony, except Norfolk Island, under direct military rule. The island's naval lieutenant-governor, then Commander King, in this appointment, remained the head of both the local civil and military power. Later, as a result of disturbances (discussed below), King's rightful disciplinary powers over the island's military detachment were curtailed by Grose as acting governor. Once this happened, with the military conducting the magistrates' and criminal courts, their power over the whole colony was absolute. This was compounded by the fact that for both criminal courts and courts martial, Grose was the confirming authority. Despite the displacement of the civil power, the convicts' lot remained unchanged, with no apparent difference to the prevailing internal security situation.

Grose rapidly introduced a system of free enterprise favouring the small official elite, supported by government largess. Within a month of the arrival of the dispatch approving land grants to military and civil officers, he granted eight

⁶ R Holmes, *Redcoat The British Soldier in the Age of Horse and Musket*, Hammersmith, 2001, p.89. In 1794, Prime Minister Pitt created the appointment of Secretary of State for War, with added responsibility for the colonies in 1798. The importance of the Secretary at War declined. C Barnett, *Britain and Her Army*, pp.238-239. The Secretary for War and the Colonies was 'responsible for military affairs', while the Secretary at War 'remained the executive head of military administration'. The first Secretary for War (Henry Dundas) also held the offices of 'Home Secretary, Treasurer of the Navy and President of the Indian Board of Control'. As Home Secretary, he would have had little time to consider New South Wales and the transportation of convicts, nor as Secretary for War, would he be concerned about an insignificant Corps.

⁷ *HRNSW*, 2, *Introduction*, p.xxiv. There is no written record of this, with the presumption that it may have been either a *Military Order* or given verbally.

⁸ D Collins, *An Account*, pp.165-166.

individuals a total of 700 acres.⁹ Grose ultimately granted 10,674 acres in the two years of his administration, while his military successor, Captain Paterson, dispensed 4965 acres in nine months. Both officers authorised grants to those 'who had incurred favour amongst the military'.¹⁰ A generous labour force of convicts, clothed and fed at government expense, was allocated to work the officers' land. Also, no hindrance was placed in the way of officers who formed cartels to trade in goods entering the colony. These officers had the financial capability to monopolise trade with transient ships' masters. Until emancipated convicts developed a merchant community, the officers were the only group in the colony with access to the desirable sterling drafts drawn on London. Not only could military officers draw against their own meagre pay credits, but through the regimental paymaster, also draw on their soldiers' consolidated earnings. For example, Lieutenant William Cox, who succeeded John Macarthur as the Corps' paymaster, was ordered back to England by the War Office, to face disciplinary action for having 'an excessive Balance that has been accumulated in the Hands of the Paymaster', with a balance overdrawn on 24 February 1802 of £7,898/16/4½.¹¹ After three comfortable years of *laissez faire* colonial government, the officers were thereafter prepared to frustrate attempts by naval governors to curtail their enterprises. Later, Hunter expressed the 'strongest astonishment' that military officers had entered into trade of any kind despite some of them holding considerable tracts of land.¹²

The naval governors, under orders from London to stop these activities, especially the use of spirits as a trading medium, came into direct conflict with vested interests which included serving, and later, retired military officers. This was the major cause of friction between those defending their perquisites, and successive

⁹ HRA, I, I, p.365. Dundas to Phillip of July 1792, for approval of grants, with provisos. Commentary Note No.176, pp.758-759, for background, and receipt of Dundas' dispatch on 15 January 1793. Eight grants (not seven as stated in Note 176) were authorised on 12 February 1793, p.438. Unaccountably, Grose approved a grant of twenty-five acres to Ensign Cummings on 31 December 1792, after Phillip's departure and before approval was received from London.

¹⁰ HRA, I, I, p.783, Commentary Note 319.

¹¹ AJCP, reel 1073, *Out Letters Secretary-at-War New South Wales Corps, 1803-1810, WO 4/846*, pp.9-10. T Moore (for Secretary at War) to Colonel Clinton (Commander-in-Chiefs' staff) of December 1803.

¹² HRA, I, I, p.670. Hunter to Portland of November 1796.

naval governors, Hunter, King and Bligh. The point of contention was which interests were to exert economic control over the colony; the entrepreneurial groupings, or the governor and his regulated market. This was not a monolithic struggle between two bases of power, but rather a loose coalition of individuals manoeuvring to gain personal advantage or prestige to strengthen their own position in a penal colony where, because of its isolation and small size of its ruling elite, tensions tended to be magnified. To picture this confrontation as a power play resulting from inter-service jealousies distorts reality. Even so, the form that the strife took was primarily that of the New South Wales Corps officers defending their "honour" against the naval governors. A simplistic depiction of this inter-service rivalry should more accurately be seen as a conflict between the military power, sponsored by powerful cliques, which included civilian officials, against the civil power, exercised autocratically by the succession of naval governors.

By the time Hunter assumed office, the Corps had evolved a firmly entrenched system of power and privilege. It is little wonder that Hunter, in a dispatch, of November 1796, wrote of the military and civil officers, that :-

every means was practis'd to frustrate the endeavours I saw it was necessary to use for correcting various tricks, and to remove customs which had been long establish'd, and for want of timely attention consider'd as licens'd. Continually thwarted ... worthless characters [were] encourag'd almost into a state of resistance by those whose schemes might have been in some degree effected by the changes I was about to make¹³

Hunter advised London that a central problem in the colony was that the administration of justice was in the hands of the military. To correct this, he appointed the Reverend Richard Johnson and William Balmain, the surgeon, as acting magistrates 'in the district of the town of Sydney'.¹⁴ He hoped that this would reduce the 'power and influence [of the military] over the civil concerns of the colony'. The degree of Hunter's concern is indicated by his comment that this action could thwart the military in their attempts to 'overthrow ... the civil power ...

¹³ *HRNSW*, 3, pp.170-171. Hunter to Portland.

¹⁴ *HRNSW*, 3, p.137. Government and General Order of September 1796.

and to continue that disorder, confusion, and disobedience' which had resulted from his attempts to curb the licence the military had enjoyed after Phillip's departure.¹⁵ King later extended this system of civilian magistrates, in naming eight magistrates in 1806, of which only four were military or naval officers.¹⁶

In the same vein, Governor-designate King, based on his previous experiences with the Corps as lieutenant-governor of Norfolk Island (discussed later), bitterly wrote:-

I am here enduring the cold indifference of one [presumably Macarthur], and the approaching hate of all ... I shall need much support at Home, for here I can expect little or none.¹⁷

Likewise, the Colonial Office was concerned by reports of officers engaged in trading activities, and resisting the naval governors. They passed on complaints of this prohibited military practice, which in turn raised the ire of the British Commander-in-Chief.

In March 1799, before Paterson, now promoted to lieutenant colonel, returned to the colony from a visit to England, he received written orders emanating from the Commander-in-Chief. These were to stop New South Wales Corps officers conducting any form of trading. Paterson was to ensure that:-

no means should be neglected which ... check in future abuses of so infamous a nature, and in every respect so pernicious to his Majesty's service and so injurious to the character of a British officer, that he [the Commander-in-Chief] is under the necessity of desiring that you will ... materially contribute in some measure to restore the credit ... to the character of a British officer, but which has in this instance been sullied.¹⁸

But despite increasing competition from civil traders, often emancipists,¹⁹ and continued efforts to curb the officers from abusing their commissions, this illegal activity was so entrenched, it was still flourishing when the Corps rose in

¹⁵ HRNSW, 3, pp. 171-172.

¹⁶ HRNSW, 6, pp.140-141. Present state of the colony, by King (no addressee shown), of August 1806. This informative document, pp.135-160, is not duplicated in *Historic Records of Australia*.

¹⁷ HRNSW, 4, p.110. King to Under Secretary King of June 1800, written before Hunter's departure from the colony. King became governor in September 1800.

¹⁸ HRNSW, 3, p.640. Horse Guards directive of March 1799.

¹⁹ BH Fletcher, *Landed Enterprise*, pp.67-68, for increasing competition with officers.

insurrection against Bligh in 1808.

Tension between the civil and military powers was long standing, and well understood by Governors Hunter and King, both of whom had previously served in the infant colony. Prior to Phillip's return to England, King, as lieutenant-governor of Norfolk Island, had shared equal civil status with Grose who arrived in the colony in February 1792 as lieutenant-governor of New South Wales. But this situation changed on Phillip's departure, with Grose assuming the duties of governor. On Norfolk Island, a series of incidents in 1793-1794 resulted in King ordering ten soldiers be dispatched to Sydney Town to face charges of mutiny. Following a military court of inquiry, the soldiers were acquitted with Grose reprimanding King for bringing discredit to the honour of the regiment.²⁰ King also received stern orders from Grose which resulted in the civil power on Norfolk Island being severely curtailed, with King prohibited from exercising command or discipline over the soldiers on the island. This order by Grose, limiting King's power, was 'to be made public' on Norfolk Island. Its concluding paragraph summarised the supremacy of the military over the civil power:-

The [military] officers being fully equal to correct any crimes committed by the soldiers, there exists no necessity for taking a soldier before a Justice of the Peace. In case, therefore, of complaint, the commanding officer of the detachment is to be referred to, who will never suffer the soldier to be given to the custody of a convict constable.²¹

This was a delicate situation for King who represented the civil power, which, by his commission, was superior to the military.²² King had to wait two years until the report of the incident had been considered in London, with the consequence that

²⁰ D Collins, *An Account*, pp.214-215, for a concise account of this incident. *HRNSW*, 2, pp.125-131, for reprimand of King by Grose, and court of enquiry of February 1794; pp.135-171, for King's report to London and pp.173-191, for reply to Grose, of March 1794.

²¹ *HRNSW*, 2, p.131.

²² *HRA*, 1, 1, p.32, for King's original commission from Phillip of February 1788, appointed him 'Superintendent and Commandant of Norfolk Island'. *HRNSW*, 2, p.452. On return to England, from a comment in a letter by King, it is established that King, on 28 January 1790, was commissioned 'by his Majesty' as 'Lieutenant-Governor of Norfolk Island, in the Pacific Ocean'. The wording of this commission is not published. But it is reasonable to presume that, in the normal practice, King was appointed commandant over troops on the island.

Grose was reprimanded for issuing illegal orders. Thereafter, the New South Wales Corps had little love for King when subsequently he returned to the colony as governor with strict orders to curtail the officers' commercial activities. King knew he was likened to 'the obnoxious character of a reformer [who] is not calculated to appear often on the theatre of this world'.²³

While King was still lieutenant-governor of Norfolk Island, Governor Hunter, who had taken over from the military administration, had his own problems with the Corps. One involved an ex-convict John Baughan, a master carpenter who had built a neat and well furnished home at Dawes Point (Figure 16).²⁴ In February 1796, following an argument between Baughan and a soldier, the soldier when subsequently acting as a sentry, irregularly left his post to go and insult Baughan. Unfortunately for the soldier, he left his musket at his post, which Baughan, unobserved, took and handed to the guard sergeant. Next morning, off duty soldiers forcefully disarmed Baughan, who attempted to defend his home and family, and then the troops 'completely demolished' Baughan's house and furniture. While this was taking place, Baughan was thrown to the ground, then 'one [soldier] held an axe over his neck, and swore if he offered to stir he would chop the head from his body.' After this the soldiers 'went off cheering ... and marched in a body cross the parade before the commanding officer's [Paterson's] house'²⁵ (Figure 17²⁶).

On the same day, Hunter issued a Government and General Order deploring this incident which he defined as 'mutiny when the military assemble in such numbers unknown to their officers'. The order concluded:-

If the soldiers ... consider them[selves] hereafter meriting the honorable appellation of British troops, it must be by their bringing forward the

²³ HRNSW, 4, p.846. Letter King to Banks of October 1802.

²⁴ D Chapman, 1788 *The People of the First Fleet*, North Ryde, 1981, pp.41-42. Baughan was transported in the First Fleet (*Friendship*). Because of his skill in building flour mills, he was granted half an acre at Dawes Point in December 1794, where he built his home. Chapman notes Collins described Baughan as 'a man of sullen and vindictive disposition'. HRNSW, 5, p.838, for Figure 16.

²⁵ HRA, 1, 1, pp.575-576. Hunter to Portland of August 1796, Enclosure 1.

²⁶ HRNSW, 5, opposite p.1. From Figure 16 measurements, it was approximately 760 yards from Baughan's to Paterson's house along the western shore of Sydney Cove.

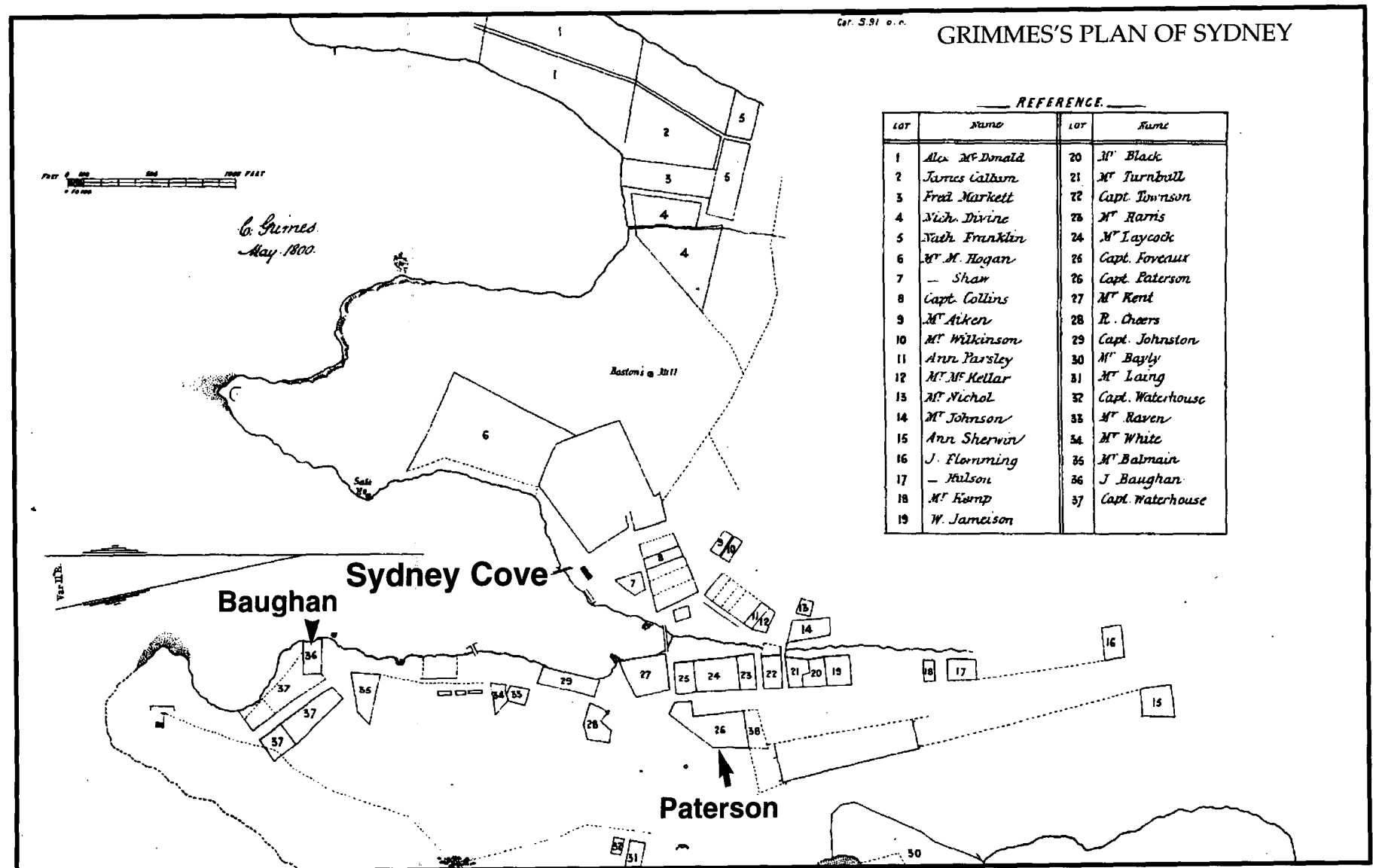


Figure 16: Sydney Cove showing Baughan's and Paterson's residences.

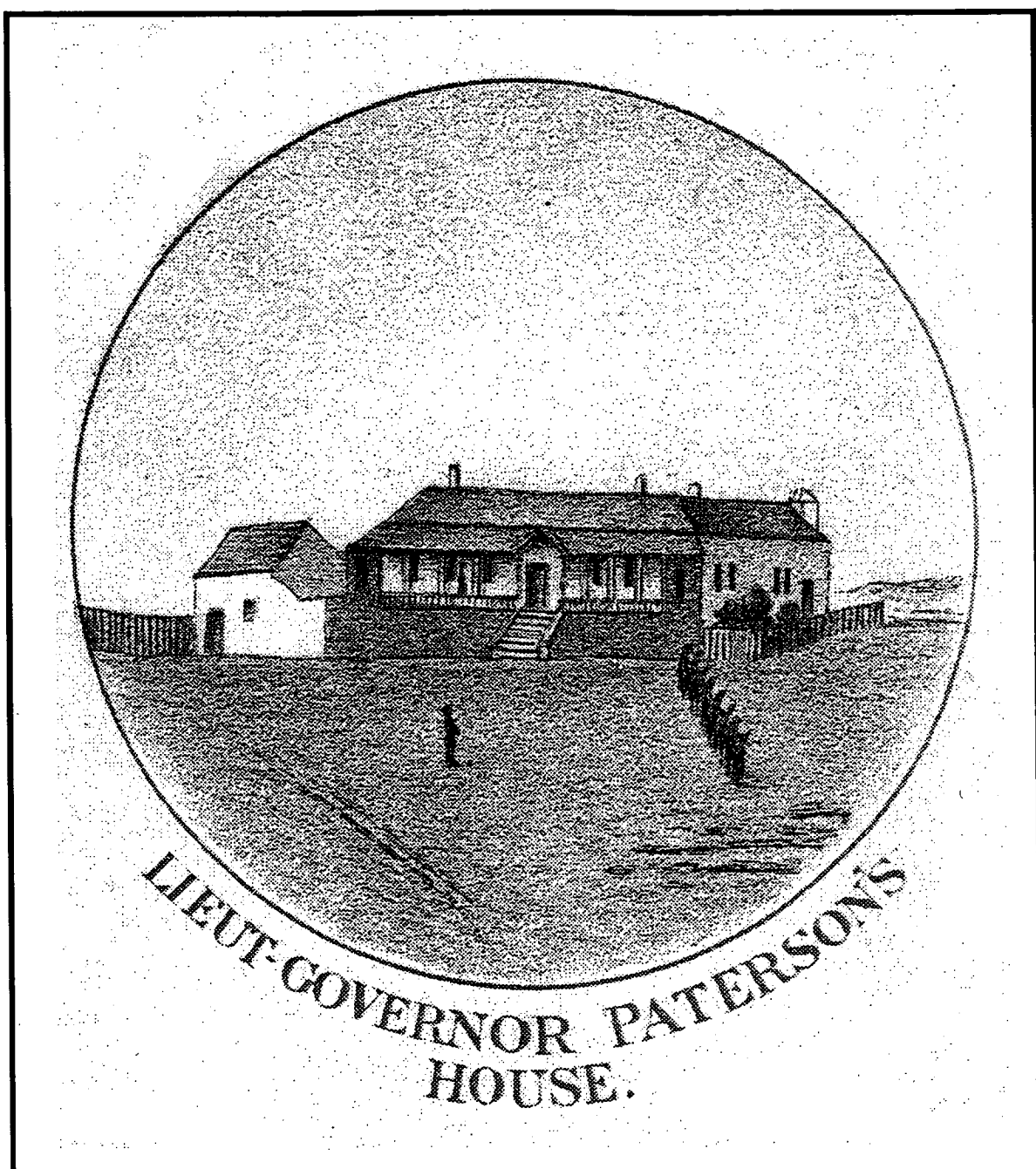


Figure 17: Paterson's house with soldiers drilling on "the parade".

ringleaders or advisers of this disgraceful conduct, in order that the stigma may be wiped away by such worthless characters being brought to trial for this shameful conduct.²⁷

Two days later, on 7 February, in a letter to the acting commanding officer, Captain Paterson, Hunter indicated the likely punishment for the four identified ringleaders, who 'in due time [will be] obliged to answer for it, most probably with their lives.'²⁸ From this letter it is clear Hunter feared a threat to internal security was posed by such lack of discipline amongst the soldiers. He wrote 'I shall consider every step they [the culprits] may go furthering aggravation as rebellion against his Majesty's government and authority'.²⁹ Next day, to tighten discipline, Hunter had the following Government and General Order issued 'Soldiers [are] to sleep in barracks, not in Hutts [sic] at a distance ... By this means they will be more immediately under the Eye of their Officers'.³⁰ After Hunter's extreme warnings of capital charges against the culprits, and a Government and General Order of 13 February, naming the officers who were to constitute the general court martial to try the accused³¹, what happened next was an anticlimax, prejudicial to all discipline.

Incredibly, on 14 February, Hunter issued a further Government and General Order which included the statement:-

A warrant having been issued for the apprehension of four of these men concerned ... he [Hunter] was prevailed on at the instance of the officers to suspend for a short time the execution of the warrant, in order that the men might be paraded and spoken to by their officers. ... [Further as] A message was then brought to the Governor by Captain McArthur ... expressive of their [the Corps] contrition, their sincere concern for what had happened ... also [that they] agreed to indemnify the sufferer for his loss. Upon receiving this message ... and by the personal petition of the sufferer, John Baughan ... the Governor ordered it [the warrant] to be withdrawn; the consequences would otherwise most probably have been fatal to some.³²

Apparently lacking the determination necessary to see this matter through,

²⁷ HRA, 1, 1, Enclosure 2, p.577.

²⁸ HRA, 1, 1, Enclosure 3, pp.577-578. Enclosure 4, p.578 for 'four ... men concerned'.

²⁹ HRA, 1, 1, p.578.

³⁰ *Government and General Orders*, Mitchell Library (ML), reel 6037, ML 1/18b, no page number. Order of 8 February 1796.

³¹ HRNSW, 3, p.18.

³² HRA, 1, 1, Enclosure 4, pp.578-579.

Hunter did not enforce any disciplinary action at all. Normally, the ringleaders would at least have been tried and severely flogged. On this occasion drastic punishment was justified to preserve military discipline. Phillip, unlike Hunter, did not shrink from acting sternly in the practice of that era, such as in March 1789, when he had six marines executed for a grave breach of military discipline.³³

Significantly, it was Macarthur, not Paterson, who presented the Corps' plea to the governor. Macarthur, described by Irish rebel, "General" Joseph Holt, as being 'as far from honour as my nose is from silver',³⁴ was a man who developed a reputation of allowing nothing to stand in the way of his chosen path. It is reasonable to surmise that as well as pleading with Hunter for the culprits' lives, he may have given hints of dire consequences in the colony if the governor continued with disciplinary action. Similarly, it is likely that the soldiers threatened Baughan, should he press ahead with charges. This is not a baseless assumption. Hunter recorded (in an undated memorandum) a conversation with Surgeon William Balmain, in which Balmain, in his capacity as examining magistrate, reported that Baughan's wife appeared apprehensive that the soldiers would murder her husband.³⁵ There is no reference in historical records to indicate the Corps took any internal disciplinary action against any soldier over the Baughan riot. This state of affairs reflected no credit on Hunter.

But the saga continued. In the course of his duties, Magistrate Balmain examined Baughan (but, correctly, not the soldiers) after the riot. As a result, Macarthur being 'instructed by his brother-officers', wrote a brash letter demanding to know whether Balmain had instructed Baughan to prosecute the soldiers, and further, did Balmain threaten Baughan with prosecution if he withdrew his complaint. Balmain's reasoned reply to Macarthur, drew forth the retort that the Corps' officers 'should be wanting in justice to themselves if they omitted to

³³ See above, Chapter 4, pp.88-89.

³⁴ J Holt, *A Rum Story, The Adventures of Joseph Holt Thirteen Years in New South Wales* (1800-12), ed. P O'Shaughnessy, Kenthurst, 1988, p.57.

³⁵ HRNSW, 3, pp.19-22. This document was prepared about June 1798 from Hunter's recollections. It was 'attested by Balmain' as being correct, p.432 and footnote.

express their indignation at his [Balmain's] shamefully malevolent interference in the affairs of their corps', Letters between Balmain and Macarthur became increasingly heated, and on 11 February, culminated in Balmain being presented with a proposal that he fight a duel with an officer 'the corps will point out ... for this purpose'.³⁶ Tempers cooled and no duel was fought.

The above incident is instructive, demonstrating that the officers, led by Macarthur, felt powerful enough to interfere in the process of civil law if they considered that either they or their interests were threatened. It also indicates that Macarthur had supplanted the acting commander of the Corps, Paterson, as the leader in conducting negotiations with the governor as well as with a civil magistrate.³⁷ What is more, as Hunter was the writer of the memorandum, it is clear that, at the time of the incident, he was fully aware of this interference with one of his magistrates, but took no action to defend the authority of the civil power. Another instance of Hunter's weakness in failing to enforce punishment following criminal proceedings, occurred when five men were found guilty of murdering two Aboriginal boys. Having decried that due to the court's finding, the men were still living 'at their ease' on their own farms, Hunter then claimed that because there was a difference of opinion between the court and himself as 'executive authoritys [sic]', he did not act, as he did not wish to show 'the smallest degree inconsistent with lenity'. Such an approach to governing a harsh penal colony, could only be taken as a sign of indecision, or weakness by those who opposed him, such as the Corps' officers.³⁸ Professor Fletcher's description of Hunter as 'the weakest and least effectual of the early governors', appears vindicated by these examples of Hunter's failure to take firm disciplinary action.³⁹

³⁶ HRNSW, 3, pp.20, 21 and 22 respectively.

³⁷ HRA, 1, 3, p.246, supports this contention of the author. King, when governor, described Paterson as 'a weak, honest man ... like many other men, "made a knave's tool of."'

³⁸ HRA, 1, 2, p.402. Hunter to Portland of January 1800, with attached trial proceedings pp.403-422.

³⁹ DD Mann, *The Present Picture of New South Wales 1811*, Sydney, 1979, p.viii, BH Fletcher's Introduction.

Only five months before the incident involving Baughan, Hunter had been sworn in as 'Captain-General and Governor-in-Chief' over 'all towns, *garrisons* [authors emphasis], castles, forts, and all other fortifications or other military works'.⁴⁰ Therefore, his failure to counter the Corps' challenge created a dangerous precedent. This trial of strength, and victory for the New South Wales Corps, boosted the Corps' self-aggrandisement and determination to counter any future moves against their entrenched position of privilege. The Baughan affair is considered a significant benchmark in the long running civil/military power confrontation which involved the Corps and the naval governors Hunter, King and Bligh. London's view on this breach of military discipline was enunciated in the Duke of Portland's dispatch of August 1797:-

The conduct of the military ... is of so flagrant a nature, and so directly tending to *endanger the safety of your Government* [author's emphasis], that I cannot well imagine anything like a justifiable excuse for not bringing the four soldiers ... to a Court-martial, and punishing them with the utmost severity.⁴¹

This was a clear warning to Hunter of a threat to internal security, by the forces he was commissioned to command.

The sentiment in Portland's dispatch, was echoed a few months later in a letter by Reverend Samuel Marsden:-

Since Governor Hunter's arrival there has been a great struggle between the civil and military power.
... [Hunter] had little prospect from the officers in general of obtaining aid and assistance from them to enable him to reduce the Colony to any kind of order and subordination⁴²

Marsden's comment about the conflicting civil and military powers, while referring to Hunter, is relevant in regard to all governors under consideration in this thesis. The intensity of disputation that developed between the civil power and a military clique, is evident in a connected series of incidents, between August and early October 1801, which involved Governor King who took office in September 1800.

⁴⁰ HRA, I, I, p.513. From the opening paragraph of Hunter's commission.

⁴¹ HRNSW, 3, p.294.

⁴² S Marsden, *The Letters and Journals of Samuel Marsden 1765-1838 Senior Chaplain in the Colony of New South Wales and Superintendent of the Church Missionary Society in New Zealand*, ed. JR Elder, Dunedin, 1932, pp.31-32. Letter of September 1796.

This chain of events commenced with the trial of Lieutenant Marshall RN, leading to King being sent 'to Coventry' at Macarthur's instigation. This resulted in a duel between Paterson and Macarthur, and Macarthur's period of close arrest. During this time, Macarthur was ordered to return to England to stand trial. Finally, before he left the colony, Macarthur's actions led to an incident of riotous behaviour by soldiers he had previously commanded.

This sorry sequence of events may have taken a different course, had the Corps' commanding officer, Lieutenant Colonel Paterson, not been temporarily absent, with command devolved onto Captain Macarthur the next senior officer in Sydney. In this capacity, Macarthur advised King of an alleged fraudulent action regarding a dead Corps' officer's possessions, implicating Lieutenant James Marshall RN, the naval agent on the newly arrived convict transport *Cornwallis*. On King's orders, this complaint was investigated by magistrates, who considered there were insufficient grounds for Marshall to be charged in a criminal court.⁴³ Animosity between Macarthur and Marshall intensified resulting in a challenge being issued for a duel. This did not proceed as Macarthur's second, Captain Abbott, refused to have dealing with Marshall's second, who Abbott considered below his social status. Next day Marshall publicly struck Abbott and was forcefully prevented from striking Macarthur. As a result, Marshall was tried in the criminal court, which consisted of Paterson, four other Corps officers, one naval officer and the judge-advocate. He was convicted, and sentenced to a £50 fine and one years imprisonment.⁴⁴

During his trial, Marshall had raised objections to the composition of the court and apparent bias against himself.⁴⁵ King took up this question once the trial was completed. As a result, a series of acrimonious letters were exchanged between

⁴³ HRNSW, 4, p.550. Judge-Advocate Atkins to King of 20 August 1801.

⁴⁴ HRNSW, 4, pp.524-525. King to Portland of September 1801. For details in this paragraph. King gave Marshall a 'conditional remission' (p.526) so that a question of law, raised by the defendant, could be resolved in England.

⁴⁵ HRNSW, 4, pp.535-537.

King and some officers, with Macarthur being the main correspondent.⁴⁶ Because of 'the proceeding in Lt. Marshall's trial', coupled with earlier reforms enforced on the officers by King, Macarthur took it upon himself to 'send me [King] to Coventry'.⁴⁷

In a dispatch, the governor advised London that 'Col'l Paterson informed me that Capt'n McArthur felt so much offended with him [Paterson] for not agreeing to withhold his visits to me, that he threatened him to divulge all their private and public conversations, correspondence, and transactions.' Macarthur carried out his threat (which was little short of blackmail) by having it 'rumoured by some of the officers' that uncomplimentary letters concerning King, had been drafted by Paterson for dispatch to Banks and also the Horse Guards. While King and Paterson reconciled this difference, Adjutant Minchin 'no sooner heard that Col'l Paterson and myself intended to dine together, than notice thereof was sent to Capt'n McArthur ... [who made] an exposure of much private correspondence ... very hurtful to Col'l Paterson's feelings'.⁴⁸ Paterson later wrote to King that Macarthur, with the intention of creating ill feeling between the officers and their superior, even publicly quoted from personal letters written by Mrs Paterson to Mrs Macarthur. As a result, Paterson felt obliged to 'call upon him [Macarthur] for that satisfaction I, as an injured man, had a right to expect'.⁴⁹

In challenging Macarthur to a duel, Paterson was conscious he was 'deviating from the exact line of military discipline', but from 'the particular situation I was placed in with some of the officers, I had no other mode of obtaining [satisfaction]'.⁵⁰ At this time, it was well known that under English law, if a duelist was killed, the other principal and both seconds would be tried for murder. In May 1801, this had occurred in India, where a Lieutenant Bellasis killed his duelling

⁴⁶ *HRNSW*, 4, pp.540-558.

⁴⁷ *HRNSW*, 4, p. 498. Private letter, King to Under-Secretary King of 21 August 1801.

⁴⁸ *HRNSW*, 4, p.527. King to Portland of 25 September 1801. For Paterson's letters; extract to Sir Joseph Banks, undated, p.547, and to General Brownrigg of 24 August 1801, pp.507-512.

⁴⁹ *HRNSW*, 4, pp.580-581. Paterson to King of 29 September 1801.

⁵⁰ *HRNSW*, 4, p.581.

opponent, and both Bellasis and his second, Captain Byne, were convicted of murder. The situation of the other second, presumably a civilian, is not known. Bellasis was sentenced to fourteen years transportation. Despite this, Paterson's duel was not unique for officers of his rank, as a petition on behalf of Captain Byne refers to 'Lieut't-Colonel Robinson', of the 16th Regiment, going 'to the field on a similar occasion'.⁵¹ Despite duelling being unlawful, its practice permeated the officer class and higher levels of English society. For example, years later the Duke of Wellington, when prime minister, challenged and duelled with Lord Winchilsea over a perceived matter of honour. Later that day, when Wellington advised the king of the duel, the latter expressed his approval over the incident.⁵²

Paterson's challenge to Macarthur was, however, not a desperate last throw by Paterson to retain his standing as commanding officer. Instead, it was at the time, an accepted, if illegal way in which a "gentleman" could maintain his self-esteem in an abnormal situation. Indeed, amongst the troops, Paterson's "manly defence of his honour", possibly won their respect, rather than disillusioning them with a very public example of dissension amongst their officers. Nevertheless, it is a safe assumption, that the soldiers and convicts would have followed the developing saga with intense interest. The distracting dissent amongst their superiors, would have done little for enforcement of military discipline and the efficient conduct of the Corps' internal security duties.

In his duel with Macarthur on 14 September 1801, Paterson was seriously wounded in the right shoulder.⁵³ As a result, Macarthur and both seconds were placed in close arrest under a Government and General Order of 15 September 1801. In the same order, it was directed that Macarthur hold himself in readiness for reposting to Norfolk Island. He disputed this reposting, and as events transpired,

⁵¹ *HRNSW*, 4, pp.456-459 and 460 for Robinson.

⁵² P Guedalla, *The Duke*, London, reprinted December 1931, pp.382-383.

⁵³ *HRNSW*, 4, p.532. For King's summary of events, in this and next paragraph, pp.528-533.

remained in Sydney under close arrest.⁵⁴ Under military law, arrested officers could only be held for eight days without charges being laid. Should Paterson have died of his wound during this period, or later, it would have been 'necessary to deliver the parties over to the civil power' to face murder charges.⁵⁵

As Paterson was still alive after the eight days, a further order was issued releasing Macarthur and the two seconds from arrest, subject to 'their giving bail and proper security for their appearance before a Court of Criminal Judicature [if] ... Paterson dies ... of that wound'. Additionally, the officers, including Paterson (when recovered) were to 'enter in recognizances for keeping the peace towards each other' while resident in the colony. Macarthur would not accept these conditions, and demanded he remain in close arrest pending a general court martial to clear his name of perceived injustices.⁵⁶ His attitude during this period, was indicated in his private correspondence, which makes no attempt to disguise the fact that he considered Governor King as 'my game' and 'I am now so deeply in that the game begins to be amusing'.⁵⁷ King, exasperated with Macarthur, and with the functions of governor and prosecutor being incompatible, decided to send him to England, under the close arrest Macarthur did 'not choose to quit'. King considered, that in England, Macarthur should stand trial before a general court martial, on the basis of 'endeavouring to create a dissension between me and Lieut't-Colonel Paterson, commanding His Majesty's troops in this territory and Acting Lieut't-Governor, whereby His Majesty's service has been much injured'.⁵⁸ But this decision by King, was not the end of the sequence of events involving Macarthur before his forced departure from the colony.

⁵⁴ HRNSW, 4, p.559, for order, and pp.561-562, for Macarthur's reply to King of 16 September. This reposting would have been effected once Paterson's life was no longer in danger, or after the stipulated eight days. For delivery to civil power, p.564.

⁵⁵ HRNSW, 4, p.564.

⁵⁶ HRNSW, 4, p.566. Government and General Order of 21 September 1801 and Macarthur to Adjutant Minchin of same date, pp.567-568.

⁵⁷ MB Eldershaw, *The Life and Times of Captain John Piper*, Sydney, 1973, p.41. Letter John Macarthur to John Piper of 16 September 1801. Eldershaw's editorial comment indicates to whom Macarthur was referring.

⁵⁸ HRNSW, 4, p.532. King also wrote that most of the officers who would have made up a court in the colony 'could not be considered impartial judges'.

While Macarthur was under close arrest at his home, MB Eldershaw refers to a 'minor incident' initiated by Macarthur which was 'In pursuance of his game [refer previous paragraph] ... an act of defiance which bore a sinister complexion'.⁵⁹ In this instance, Macarthur gave a 'present' of liquor to soldiers of his former command, the Corps' Parramatta Detachment. This was collected by a Sergeant Bayless, who ignored the requirement to first obtain a permit to transfer liquor from one house to another. He was apprehended by a civilian constable and the liquor confiscated. Bayless immediately complained to the new Detachment Commander, Lieutenant Hobby, who, in turn, established the legality of the constable's actions. Five minutes after Bayless was dismissed by Hobby, the latter and another officer, saw a 'number of men running up the street, some ... armed with large sticks' to retrieve the cask, by force if necessary. They were intercepted by the two officers, who broke up the mob before any violence was perpetuated.⁶⁰ Afterwards, King directed Paterson to rebuke Macarthur over that officer's involvement. The governor wrote that if this riot had not been prevented, it would have 'throw[n] this colony into the greatest confusion'.⁶¹

This further instance of military mob rule, like that associated with the destruction of Baughan's house, demonstrates the scant regard some soldiers and their officers held for the civil power. It also indicates how Macarthur maintained control over his former detachment. The soldiers appear to have reacted as though Macarthur was still in command, apparently feeling confident that they could thrust aside civic obstructions to local military supremacy. Finally, as Macarthur as a civilian, later provided soldiers with cheap spirits after the rebellion against Bligh in 1808,⁶² it appears that over an extended period, Macarthur used 'presents' of spirits to soldiers for his own ends; possibly to gain or retain their personal loyalty to him, as opposed to regimental loyalty. It is little wonder that King, in August 1801, wrote

⁵⁹ MB Eldershaw, *Captain John Piper*, p.41.

⁶⁰ *HRA*, 1, 3, pp.299. Report Hobby to King of 5 October 1801.

⁶¹ *HRA*, 1, 3, p.300.

⁶² See below, Chapter 11, p.281.

that Macarthur 'will one day or other sett [sic] this colony in a flame.'⁶³

Smouldering discontent amongst some of the military officers was to burst into flames in the insurrection against Bligh of 1808.

Even after Macarthur was sent back to England under arrest in November 1801,⁶⁴ antagonism continued between King and the military officers. This was inevitable, as emphasised by ACV Melbourne, quoting from the 1812 *Committee of Inquiry*,

The manner in which these extensive powers [of the governor] have been used ... has not always been such as to give satisfaction to the colony ... where so much authority and responsibility are thrown into the hands of one man, his will, however just, and his administration however wise, will ... create opposition and discontent amongst men unused, in their own country, to see so great a monopoly of power.⁶⁵

This particularly applied when the governor was ordered to impose unwanted restrictions on influential monopolistic elements in the small colonial society. For example Captain Kemp, assisted by Adjutant Minchin, caused trouble during a visit of French ships, under command of Commodore Baudin to Port Jackson.⁶⁶ Kemp very publicly retailed the unfounded rumour that French officers had sold spirits ashore. This caused King and Baudin considerable trouble in investigating and resolving the matter. An unexpected by-product of this incident was a rupturing of relations between the governor and Lieutenant-Governor Paterson.⁶⁷ An indication of Paterson's feelings was reflected in a letter to the War Office 'there are few troops that would have bore, with equal steadiness, the repeated insults that both officers and men have met with of late from His Excellency Governor King'.⁶⁸

⁶³ HRA, 1, 3, p.246. King to Under Secretary King of August 1801.

⁶⁴ HRA, 1, 3, p.331. King to Portland of November 1801, and p.690 for Regimental Monthly Return.

⁶⁵ ACV Melbourne, *Early Constitutional Development in Australia, New South Wales 1788-1856, Queensland 1859-1922 (with Notes to 1963 by the Editor)*, ed. RB Joyce, St. Lucia, second ed. 1963, pp.49-50.

⁶⁶ For visit, see below, Chapter 10, p.253 and footnote 52.

⁶⁷ HRA, 1, 3, pp.657-661. Letter King to Paterson of October 1802, for crux of the issue; last paragraph p.660 for accusations regarding Kemp. Also p.652, for King to Hobart of November 1802, describing Kemp's misbehaviour.

⁶⁸ HRNSW, 4, p.903. Paterson in a private letter to Secretary Sullivan of November 1802.

Meantime, opposition to the 'high hand[ed]' and 'fiery temper[ed]'

Governor King⁶⁹ often took the form of scurrilous scandal sheets being circulated in the community. This led to a series of general courts martial which had something of a farcical air as the disaffected officers were the only ones available to provide members for the court.⁷⁰ The February 1803 court martial of Captain Kemp, on a related charge, is considered by this author to have later impacted on internal security in the colony. There is a distinct similarity between this trial and Macarthur's later criminal court trial of January 1808, which precipitated the Corps's rebellion against Bligh. The particular link being Kemp himself, who in 1808 was the senior officer presiding at Macarthur's trial and who applied similar court tactics in 1808 to those used successfully on his behalf in 1803.⁷¹ HV Evatt's *Rum Rebellion* considers both trials, but with his focus directed towards Macarthur rather than the Corps' officers, he does not comment on the repetition, in 1808, of the court tactics used to manipulate the 1803 trial.⁷² A development resulting from the 1803 trial is emphasised by Evatt; this was the correspondence by Sir HB Hayes to Hobart, blackening King's reputation - part of a campaign which ultimately resulted in King being recalled to England.⁷³

The manipulation of Kemp's court martial was most effective, and occurred after Surgeon Harris of the Corps, acting as deputy judge-advocate, completed his case for the prosecution. Kemp then requested and was granted a three day halt in proceeding to allow him to prepare his defence. On the third day, 23 February 1803, Johnston (acting commanding officer) charged Harris with a court martial offence

⁶⁹ I Lee, *The Coming Of The British To Australia 1788 to 1829*, London, 1906, pp.65-66.

⁷⁰ For criminal court trials, naval officers sat as members with Corps officers, for example Lieutenant Grant RN sat on the trial of Lieutenant Marshall RN. But for courts martial, members came from the same armed service as the defendant.

⁷¹ See below, Chapter 11, p.271 and footnote 17.

⁷² HV Evatt, *Rum Rebellion A Study of the Overthrow of Governor Bligh by John Macarthur and the New South Wales Corps*, Sydney, 2nd ed. 1939, pp.79-82 for 1803. For 1808; pp.193-206. Kemp only gets a brief mention on p.207, as the senior member of the court who threatened Atkins.

⁷³ HV Evatt, *Rum Rebellion*, p.82. HRNSW, 5, p.104. Hayes to Hobart of May 1803. In this partisan letter, Hayes refers to King as 'a man ... mistaking arrogance for dignity, and caprice for wisdom'. Hayes was an 'intimate friend' of Captain Colnett, HMS *Glatton*, one of King's fiercest critics.

and wrote to King requesting a general court martial be convened to try Harris. He also pointed out the charge against Harris 'has occasioned the present Court-Martial [of Kemp] to be adjourned until such time as Your Excellency shall be pleased to appoint some other Person to sit as Judge-Advocate thereof.'⁷⁴ This bore a striking resemblance to the later court proceedings against Macarthur of January 1808, when Kemp demanded Bligh replace Judge-Advocate Richard Atkins.⁷⁵

Thereafter, for Kemp's 1803 court martial, Johnston declared that the officers nominated as members of the court were not available for any other duty until they were discharged on completion of this court martial. As Harris was not available to continue with the trial due to his own pending court martial, Johnston asserted that Kemp's court martial could not be completed until King appointed a fresh judge-advocate to the court. This, King consistently refused to do. Additionally, Johnston maintained that until the completion of Kemp's court martial, there were insufficient uncommitted officers available to form a court martial on Harris, or indeed to form a criminal court. As Johnston would not shift from this circular argument, on 4 March 1803 King capitulated, appointing another judge-advocate (Atkins) for Kemp's trial.⁷⁶ King had little choice as he urgently needed officers available to form a criminal court to try fourteen Irish prisoners, who had gone on a rampage of attempted murder, violence and rape.⁷⁷

Kemp, in 1808, employed similar tactics at Macarthur's trial, that of prohibiting the judge-advocate from officiating. It is a reasonable supposition that Kemp, and Macarthur's supporters, considered the tactics used in successfully replacing the prosecuting officer at the 1803 court martial, could again be applied to humble another governor, who had proved to be implacably opposed to the officers' commercial interests. But Kemp failed to budge Bligh, thus precipitating the

⁷⁴ HRA, I, 4, p.177. Johnston to King of February 1803.

⁷⁵ See above, footnote 71.

⁷⁶ HRA, I, 4, pp.160-163 and 177-210 for details.

⁷⁷ See below, Chapter 9, p.219 and footnote 56, for this incident.

insurrection.⁷⁸ Both Kemp's 1803 court martial and Macarthur's 1808 trial were struggles for supremacy between the civil and military powers. A further parallel between the trials in 1803 and 1808 is that on each occasion, the command of the Corps in Sydney was exercised by Major George Johnston, with Adjutant Minchin providing administrative continuity at the Corps' headquarters.⁷⁹

This chapter has presented the soldiers, and especially their officers, in an unfavourable light. But King also had good words for the Corps. Regarding the troops, in 1802, he commented that 'justice to the soldiers requires my saying that since I have been in the command, their conduct has been regular and good, and, in many instances, very praiseworthy'.⁸⁰ Despite problems with the officers, he was astute enough to assess how they would act in an emergency. In August 1803, he wrote 'I have felt myself ill-treated by the officers of the Corps as Governor, but that they, as well as every soldier, would be as forward as any troops in His Majesty's service in doing their duty'.⁸¹ The Castle Hill Rebellion the following year was to vindicate, if somewhat brutally, this opinion of the Corps. Johnston who had been sent to England under close arrest in 1800, for selling spirits to one of his company sergeants, was the officer publicly lauded by King in 1804 for putting down the rebels.⁸² Nevertheless, like the recall of Hunter, the Corps' officers including Macarthur (in and out of uniform), helped tarnish King's reputation as governor, leading to his being replaced by Bligh.⁸³

From this chapter, it is argued that grave weakness was shown in maintenance of discipline over the troops, such as when they embarked on mob rule. Even

⁷⁸ See below, Chapter 11, p.272, footnote 18, for correspondence and p.282.

⁷⁹ In 1803, Lieutenant Colonel Paterson was on sick leave, and in 1808 he was in command at Port Dalrymple in Van Diemen's Land.

⁸⁰ HRNSW, 4, p.781. Letter King to Under Secretary King of June 1802.

⁸¹ HRA, 1, 4, p.358. King to Hobart.

⁸² HRNSW, 4, pp.84-85. King to Under Secretary King of May 1800. Captain Johnston, who was Hunter's ADC, was placed under arrest by Paterson. Hunter, while still governor, refused to allow a court martial for Johnston. King later stated that as Johnston 'declined' to be court martialled in the colony, King sent him back under arrest to England, p.196. For Johnston's service during the 1804 rebellion, see below, Chapter 9, pp.224-225 and 230-237.

⁸³ HV Evatt, *Rum Rebellion*, pp.77-78 and 103.

London commented on the adverse effect that mob rule had on Hunter's government, and by inference, on internal security. His failure to discipline the main culprits in the Baughan affair was possibly a turning point in the struggle by the military power to gain supremacy over the civil power. In such a disturbed atmosphere, with many regimental officers involved in personal vendettas, their farms or trading profits, the unit's efficiency in its internal security duties suffered from a slackening of discipline. In 1811, prior to Johnston's court martial for the 1808 rebellion, two experienced sergeants, Bremlow and Champion (the latter reduced to the ranks for displaying pro-Bligh sentiments) gave pre-trial statements for the prosecution, which referred to discipline in the unit. Bremlow said, he was 'well informed of the bad discipline [sic] of the Corps, while Champion reported 'bad discipline [sic] and abuses [sic] in the Corps Generally'.⁸⁴ Nevertheless, in the one emergency faced by the Corps, during the rebellion of 1804, the soldiers and those officers involved, especially Johnston, performed the duties expected of them.

Against this, there was developing a less than attractive aspect of the Corps, particularly amongst its officers. Due to the overwhelming determination of the military to defend their financial interests against the naval governors, there was constant conflict between the military and civil powers. In the small colonial society this created stress and hostility, leading to incidents such as the duel between Macarthur and Paterson, and the many courts martial of officers in which the governor was involved. This undoubtedly added to dissent in the ranks, where soldiers appear to have been influenced by their officers against the authority of the governor. Such an attitude would have been heightened where, because of insufficient barracks to house all the troops, they lived in 'a multiplicity of scattered huts' where the soldier 'might ... think of himself more as an independent citizen than as a subordinate soldier.'⁸⁵

Finally, within the record of Kemp's court martial in 1803, is a traceable

⁸⁴ A Atkinson, 'William Bligh's Chickens', *The Push from the Bush*, No.25, October 1987, pp.75 and 90.

⁸⁵ D Collins, *An Account*, p.196.

connection between it and the Corps's insurrection against Bligh. Similarly, Johnston, Kemp and Minchin who were linked with the 1803 trial, again appeared as active participants in the revolt against Bligh. When joined by Macarthur, the day came in 1808 when the colony was 'sett ... in a flame'.

Chapter 9

The Convict Rebellion of 1804

Towards the end of the 18th century, the Irish people's nationalistic pride and resistance to English rule was bolstered by the success of the French revolution. Reminders of injustices imposed by the English found fertile ground amongst some educated townsmen and country gentry¹, as well as the poor peasantry in Ireland. The protestant Anglo-Irish ruling elite, fearful of an uprising supported by a French invasion, imposed martial law. These fears were not without foundation, for on 23 May 1798, an insurrection 'broke out prematurely ... forcing the rank and file into the field without their French allies'.² This confrontation, which finally degenerated into a struggle between Catholics and Protestants, was uncoordinated, but mobs armed with fearsome pikes, created panic amongst the Protestant community (Figure 18³).

The rebels were opposed by volunteer militias and the British Army, who responded savagely, putting down a series of uprisings. A month after the insurrection commenced, the rebel stronghold at Vinegar Hill in County Wexford was captured. But this did not stop the hatred and killing. In July 1798, a British soldier

¹ Such men included Theobald Wolfe Tone, a Protestant lawyer of English descent and "General" Joseph Holt, a Protestant country gentleman. On philosophic grounds, both were leaders of the 1798 revolution. R O'Donnell, 'Michael Dwyer: 'The Wicklow Chief'', *Irish Convict Lives*, ed. B Reece, Sydney, 1993, p.19. Holt's rebel rank of 'general ... was a genuine battlefield promotion reflecting his military acumen and seniority in the pre-Rebellion organisation.'

² R O'Donnell, 'Michael Dwyer', p.21. Notes 'All hope ... was lost when the Dublin yeomanry turned out at short notice and prevented the mobilisation of the city rebels.'

³ S Rigge, 'Ireland The Tortured Colony', *The British Empire*, BBC tv Time-Life Books No.58, 1973, front cover.



Figure 18: The pikes, Ireland 1798

Possible images such as this contributed to fears in the colony of an Irish uprising.

wrote of his first experience of the horrors of civil war; at Arklow, a town attacked by a 'large body of rebels a few days before':-

the ground where the rebels had stood during the action ... was disgusting. Numbers of bodies were still unburied, some of them lying in ditches, and the swine feeding on them. There was a number of prisoners in the place ... whom they were trying to court-martial and hanging⁴

Arriving too late, and with too little to assist the rebels, a small force of 1100 Frenchmen landed in Connaught in northwestern Ireland in August 1798. After an ineffectual march inland, they were defeated, together with the hopes of the Irish, with remaining pockets of dissension ruthlessly destroyed. JW Fortescue in his *History of the British Army* noted 'the unhappy peasants were pursued with a ferocity which even to the present day [1906] has never been forgiven'.⁵ Amongst the many Irish prisoners transported to New South Wales, the spirit of rebellion remained strong. They brought a legacy of hate to the colony, where, easily manufactured and hidden pikes were to be a weapon of retribution. To the English, the pike conjured up threatening visions of the rebellious Irish emulating the worst excesses of the French revolution. For the governor and colonial society, the New South Wales Corps, despite its weaknesses and possibly disloyal elements (such as Irish and prison conscripts)⁶, were the only protection against any possible uprising.⁷

The first convicts from Ireland were transported to the colony in *Queen*,

⁴ GB, 'The horrors of the Irish Rising, 1798', *Rank And File, The Common Soldier at Peace and War 1642-1914*, TH McGuffie compiler, London, 1964, pp.260-261.

⁵ JW Fortescue, *A History of The British Army, Vol.4, Pt.1, 1789-1801*, London, 1906, p.594. This comment anticipated the Easter Uprising in Dublin by ten years.

⁶ For example, in 1800, there were thirty-eight ex-Savoy soldiers in the Corps (Figure 13). From: CJ Smee, *New South Wales Corps, Description and Succession Book 1808-1810*, A3 sized, non paginated (summary of WO 25/642), NLA reference Nf 356.109944 N532, sixth page. In 1808, a total of 790 other ranks' names were recorded, with the place of birth available for 722. Of these, presumably a loyal majority would be amongst those born as follows:- 411 Englishmen, 42 Scots, 15 Welshmen, 2 Channel Islanders, 6 born at sea and 11 locally born; with the possibility of disloyal elements amongst 196 Irishmen and 39 foreigners. This assumption does not take into account the questionable loyalty of 21 ex-Savoy soldiers in the unit in 1808 (Figure 13).

⁷ The raising by Hunter of a loyal militia, in September 1800, is referred to later. But these two companies supplemented, rather than replaced, members of the Corps.

arriving in September 1791, seven years before the Irish rebellion. Despite a search revealing that 'upwards of 200 convicts had saws found on them' on embarkation at Cork, no major security threats were recorded as the Irish settled into the convict community.⁸ Indeed, following the arrival of a further two shiploads of Irish convicts in 1793,⁹ Collins' journal only records instances of the Irish tendency to escape by small boat or attempt to walk to China. Despite them 'constantly whispering their own discontents amongst the other convicts', Collins gives no indication that up to this time there was any suspicion of insurrection being planned.¹⁰ Therefore, it would appear that prior to the 1798 rebellion in Ireland, the majority of Irish convicts was not radically motivated. With Collins' departure for England in September 1796, his *Account* from then to 1800, is based on material supplied by ex-Governor Hunter.¹¹ This being so, after 1796, the increasing note of apprehension concerning Irish behaviour, reflected the contents of Hunter's dispatches, not Collins' observations.

Hunter's initial concern with the Irish centred on the Irish government's failure to forward details of court sentences. This failure created friction, as the governor was not prepared to accept a convict's word that he, or she, had served their term of imprisonment. Such a rejection embittered convicts, when not released in accordance with their claim of having completed their sentence.¹² Hunter expressed concern that 'some seditious and ill-dispos'd persons had been tampering with the[se] refractory people'.¹³ By January 1798, he had come to consider the Irish as a 'lawless and turbulent people', but still in his dispatches did not suggest there was any plotting which threatened internal security. As late as October 1799, Hunter's

⁸ HRNSW, 2, p.772. Spring saws were concealed in their hair or soles of their shoes.

⁹ *Boddingtons and Sugar Cane*.

¹⁰ D Collins, *An Account of the English Colony in New South Wales*, Christchurch, undated, p.195, for a boat stolen and spearing, in 1793, of 'two bad characters' who arrived in *Boddingtons*. In 1794 (p.223), the Irish at Toongabbe and Parramatta making for China and small boat escape attempts; of whispering discontents (p.226).

¹¹ D Collins, *An Account*, p.xv, *Introduction* by J Collier.

¹² HRA, 1, 2, p.366. Government and General Order of 10 May 1799, advising records of imprisonment terms for Irish convicts who arrived in *Queen* in September 1791 had now been received.

¹³ HRNSW, 3, p.175. Hunter to Portland of November 1796.

major concerns, as expressed in a *Government and General Order*, still centred on runaways and escapees on board outward bound ships, rather than the Irish.¹⁴

A different emphasis is apparent in Hunter's dispatches following the arrival of the first transport which left Ireland after the 1798 rebellion. This ship carried:-

A number of Irish rebels, having been summarily tried by court-martial and sentenced to death, but reprieved on agreeing to leave the country, were shipped ... in the *Minerva*. They included General Joseph Holt, [and] Father James Harold¹⁵

Exactly three weeks after *Minerva* reached Sydney, Hunter expressed concern over the security of the powder magazine in Sydney. He ordered the building of a new magazine, because 'With such discription [sic] of persons as we have lately receiv'd from Ireland ... The present [magazine] might with little trouble be readily destroy'd ... which would dreadfully reduce our power over so numerous a body of that turbulent description'.¹⁶ Pending construction of this installation 'at the back of Windmill Hill'¹⁷, the powder was relocated aboard a hulk to 'prevent its being seized by the seditious'.¹⁸ This was the first indication to London that the Irish were seen as a serious threat to internal security within the colony.

With concern about Irish convicts intensifying amongst the settlers, by April 1800, the Irish rebel Father Harold, complained that some people 'consider it unsafe to hold communication with me'.¹⁹ In his *History of the Catholic Church in Australasia*, Cardinal Morgan described the condition of Catholics during this period

¹⁴ HRNSW, 3, p.725. Order of 9 October 1799.

¹⁵ C Bateson, *The Convict Ships 1787-1868*, Glasgow, 1969, p.158. *Minerva* sailed from Cork on 24 August 1799, with 165 male and twenty-six female convicts. She arrived Port Jackson on 11 January 1800 (pp.157-159).

¹⁶ HRNSW, 4, p.36. To Portland of February 1800. Hunter would have been aware that *Friendship* which left at the same time as *Minerva*, also carrying Irish convicts, was expected shortly. She arrived two weeks later.

¹⁷ M Austin, 'The Early Defences of Australia', *JRAHS*, Vol.49, Pt.3, November 1963, p.195.

¹⁸ HRA, 1, 2, p.618. Comment No.5, by King, on public building constructions proposed by Hunter.

¹⁹ HRNSW, 4, p.81. Harold letter to Hunter of April 1800.

as one of 'open persecution, [which] corresponds to that of the catacombs'.²⁰ He claimed 'Catholic convicts were particularly grieved by determined efforts ... to rob their children of their faith'. This was the result of two provisos placed on an 'Orphan School ... [established] by King in 1801 ... [for] improving the condition of the children'. These provisos were 'the children of convicts were included in the category of the orphan children ... [and] all such orphan children were to be brought up Protestants'.²¹ Against this assertion, it could be argued, that in 1801, King's intentions to help 'one thousand and seven ... neglected children' were commendable, and, in some cases, some form of religious education was better than none.²² Further, by 1806, there were three additional schools in Sydney, 'one of which is for Catholic children'.²³ Nevertheless, prejudice against Catholics was clearly widespread, as illustrated in a letter by Reverend Marsden, referring to Father Dixon. The latter had been banished to the colony as a result of the 1798 rebellion, but was given approval by King, to exercise his priestly functions. In 1803, Marsden wrote 'Satan has still his friends ... and maintains his cause in every quarter. I did not expect to see his kingdom strengthened amongst us by the addition of the Roman religion.'²⁴

In September 1800, as suspicions of rebellion deepened, an inquiry was ordered by Hunter because 'certain seditious assemblies ... have been held ... to the great danger of His Majesty's Government and the public peace'.²⁵ Without waiting

²⁰ PF Morgan, Cardinal, *History of the Catholic Church in Australasia*, Sydney, undated (but from text, published in the 1890's), p.24.

²¹ PF Morgan, *History of the Catholic Church*, p.12. While the accuracy of these comments is not doubted, no formal regulations, referring to these provisos, are noted in either *Historical Records of Australia*, or *Historical Records of New South Wales*. However, by King's direction, Reverend Marsden was appointed treasurer to the school's committee, and was apparently the main coordinator for the project, *HRNSW*, 4, pp.135-136. He would have ensured that the Protestant religion prevailed.

²² *HRA*, 1, 3, p.425. King to Portland of March 1802.

²³ *HRNSW*, 6, p.152. Present state of the colony, by King (no addressee shown), of August 1806.

²⁴ *Some Private Correspondence of the Rev. Samuel Marsden and Family*, ed. G Mackaness, Dubbo, 1976, p.31, and note p.30.

²⁵ *HRNSW*, 4, p.119. Hunter's directive to 'Officers' of September 1800: pp.120-130 for The Summary of Proceedings, edited by deletion of convicts' full names. Duplicated in *HRA*, 1, 2, pp.575-583 with names given.

for the results of this inquiry, Hunter issued a Government and General Order embodying two companies of volunteers, each of fifty men, with one to be based in Sydney and the other at Parramatta.²⁶ This is of historical interest, as these were the first of a long line of militia units raised in Australia.

The inquiry ordered by Hunter was the first of two extensive investigations in one month, sparked by separate, but linked, Irish plots. In an inquiry, from 4 to 12 September 1800, it was established that there was 'a Spirit of Discontent which was fast ripening to a serious Revolt and Consequences the most dreadful'.²⁷ From witnesses' statements, it is clear that this plot embraced a degree of wishful thinking by the principal plotters, who had a series of expectations rather than clear aims. In outline, some three hundred rebels were to rise at Parramatta, and armed with pikes, staves, and firearms taken from settlers or soldiers, march on Sydney. There, they planned to kill Hunter, King and those who opposed them. Assistance was anticipated from 'disaffected' sailors on HMS *Buffalo*, and the rebel planners believed some sympathetic soldiers from the Sydney garrison would take cannon to establish a secure area for them around South Head. If the government was not overturned, the rebels intended to withdraw to this secure area. There they would live on the produce of settlers' farms 'until they heard from France whither the Insurgents meant to dispatch a ship'.

While this plan appears impracticable, if launched, it could have led to a great effusion of blood before order was restored. To discourage rebellious plotting, the inquiring officers recommended that five rebel leaders each receive 500 lashes and they and a number of others including "General" Holt and Father Harold be 'sent to

²⁶ HRA, 1, 2, pp.595-596. General Order of 6 September 1800. As 'free men' (former convicts) were enlisted in the Association, as well as into the Corps, probably this would have improved the civic status of emancipists. This order also tightened the requirement for passes to be carried by a non-settler, when travelling from 'where he is stationed or resides'; pp.636-637 for Hunter's orders of 7 September for arming and training volunteers. Commentary Note 261, pp.750-751, Australia's first volunteer force.

²⁷ HRA, 1, 2, p.582. For details in this paragraph, pp.575-583.

a distant and remote part of the Territory by the most speedy Conveyance', namely to Norfolk Island.²⁸ In fact only Harold was sent,²⁹ as Holt's 'complicity in the proposed insurrection was not proven'.³⁰ Holt later recounted that of 'nineteen men brought from the jail before the Governor to be examined, and eighteen of them turned informer ... some of them was so good as to bring Doctor Harold, the priest, in by their information.'³¹

These measures did not smother the smouldering spirit of rebellion, as a further uprising was planned for Sunday, 28 September 1800, the day Hunter embarked on *Buffalo* for return to England, and King assumed the duties of governor. This was thwarted by the arrest of suspected ringleaders at Parramatta.³² A runaway, John Lewis, told Reverend Marsden's shepherd of the plot and it is presumed the latter was the informer. Equally the plot could have been betrayed in Sydney, as Marsden, the magistrate who worked closely with King, wrote he was unable to arrest 'some of the people named in your [King's] list'.³³ From the informer, and statements quickly collected, Marsden's intelligence, passed to King, was that the insurgents, armed with pikes, had planned to attack and overcome the soldiers while they attended church on Sunday. Then swelled by numbers from other outlying centres, as soon as the 'Conquest of Parramatta' was completed, the rebels would march on Sydney. Further, this was preplanned as a 'second attempt in case their

²⁸ HRA, 1, 2, p.583. 'The Sense of the Meeting' (Summary); p.614, for King to Portland of 28 September 1800.

²⁹ HRA, 1, 2, p.740. Commentary Note 196.

³⁰ HRA, 1, 2, p.746. Commentary Note 232. J Holt, *A Rum Story, The Adventures of Joseph Holt Thirteen Years in New South Wales (1800-12)*, ed. P O'Shaughnessy, Kenthurst, 1988, pp.58-62, for Holt's account from his arrest on 5 September 1800.

³¹ HRA, 1, 2, p.61.

³² HRA, 1, 2, p.614. King in reporting this to Portland, inadvertently wrote that the plot 'was to have been put in execution on the 28th ult'o ['ultimo' - that is the 28 August]'. From King's instructions of 30 September to officers conducting the second inquiry that month (p.642), it is clear that the plot was planned for 28 September, *not* August.

³³ HRA, 1, 2, p.638. Marsden to King, 30 September 1800, and Memorandum of Suspected Persons, including mention of Lewis.

first [plan - prevented earlier by Hunter] should fail'.³⁴

Based on the above intelligence, and with the latest group of ringleaders secured by 30 September, King issued orders to four magistrates, headed by Lieutenant Colonel Paterson, the acting lieutenant-governor, to conduct an inquiry. The inquiry's aim was 'to restore good Order amongst the misguided, and Tranquility [sic] to His Majesty's peaceable subjects in the Colony.'³⁵ The magistrates wasted little time. By the following day they had collected a considerable number of statements and submitted their recommendations to King which included; five men receive 1000 lashes, four 500 and seven 200 lashes.³⁶ In advising the Duke of Portland of the proceedings, King pointed out that the insurgents could not be capitally tried, as they did everything 'but striking the blow'. Therefore, he ordered the punishments recommended by the inquiring officers be carried out, and that the principals be kept at hard labour, and lodged in irons on the hulk *Supply*, until 'they shew a peaceable disposition'. He concluded his report with 'Our local situation, and the description of the people, I hope, will be sufficient reason for any supposed severity I have been obliged to use with these misguided people.'³⁷

These severe floggings approved by King, appeared to bring the Irish convict elements under control. Additional defensive measures such as erecting palisades around the barracks and embodying the Loyal Associations were necessary.³⁸ Six months later, King advised London that although the 'Irish republicans' who had recently arrived in the colony caused much trouble³⁹, with 'the good conduct of the New South Wales Corps, the Association [militia], and English inhabitants, I see no cause for real alarm'. King qualified this statement by adding 'but it will still be

³⁴ HRA, 1, 2, pp.640 and 638 respectively.

³⁵ HRA, 1, 2, p.642.

³⁶ HRA, 1, 2, p.651.

³⁷ HRA, 1, 2, p.615. This being a postscript to his letter of 28 September 1800.

³⁸ HRA, 1, 2, p.614.

³⁹ King was referring to rebels who arrived in *Anne* on 21 February 1801.

highly necessary to be on our guard'.⁴⁰ DD Mann in giving numerous extracts from 'General Orders', illustrated the type of measures enforced to ensure internal security was maintained. For example; 'Persons passing the barracks [at Parramatta] to give a satisfactory account of themselves ... no person to carry a musket without permission of a magistrate'; 'Persons using seditious words or actions to receive exemplary punishment; All persons knowing but concealing such offence, to be treated as accomplices; Any house in which seditious meetings are held, to be demolished.'⁴¹

A partial easing of tension was reflected in King's dispatches until well into 1802. In July 1801, he issued a proclamation disbanding the Loyal Associations, praising them for their good conduct and discipline. He also wrote several appeals to London seeking concessions for many of 'the Irish ... concerned in the late rebellion ... [who] are real deserving characters'.⁴² But in May 1802, King again sounded a cautious note that 'the same restless and diabolical spirit still pervades' the Irish transported for sedition.⁴³ This feeling of unease was reflected in a private letter by Lieutenant Rowley of the New South Wales Corps, who wrote:-

The Colony is on very short allowance ... the croppies are troublesome - a great many of the ringleaders is [sic] now in Gaol under orders to go on board the Porpois [sic]. Supposed to be sent to Lord Howe Island or some bad [location] to shift for themselves.⁴⁴

Such concerns resulted from the increased transportation of Irish convicts, including rebels, to the colony; 127 males in February 1801, and an extra 284 between July and

⁴⁰ HRNSW, 4, p.330. King to Portland of March 1801.

⁴¹ DD Mann, *The Present Picture of New South Wales 1811*, Sydney, 1979, pp.24 and 26 respectively.

⁴² HRNSW, 4, p.444, for Government and General Order of 27 July 1801 disbanding the volunteers; pp.463 and 499, letters to Portland, both of 21 August 1801, for concessions; p.624, for further letter of November 1801, recommending 'His Majesty's mercy'.

⁴³ HRNSW, 4, p.765. King to Portland.

⁴⁴ *Bonwick Transcripts*, Mitchell Library (ML), CY679, A2000-4, p.1093. To Captain Waterhouse, RN, of 14 May 1802.

October 1802.⁴⁵ On 30 October 1802, King wrote to London of the United Irish, with their wild schemes, and stated he would ensure every precaution would be used to 'counteract their ridiculous plans'.⁴⁶ It is significant that on the same day King wrote this dispatch, the convict transport *Atlas* arrived, bringing another 188 Irishmen to the colony.

In December 1802, there were adequate troops to counter an increasing Irish threat to security with the distribution of the New South Wales Corps around Sydney as follows⁴⁷ :-

'Sydney and outposts' - 14 officers and staff and 416 other ranks (OR's).
 'Parramatta and outposts' - 3 officers and 102 OR's.
 'Hawkesbury' - 12 OR's.

A total security force of 547 all ranks (excluding Norfolk Island's garrison) which, even without the Loyal Associations, disbanded in 1801, provided a reasonable armed force to crush any insurrection. But following the Peace of Amiens, from 1803, there was a reduction in the strength of the Corps⁴⁸, with troops who wished to return to England departing in HMS *Glatton*. Additionally, the establishment of a settlement at Risdon Cove, Van Diemen's Land, caused a further modest decrease in troop availability at Sydney.⁴⁹

By the time the Irish insurrection actually occurred in March 1804, the

⁴⁵ C Bateson, *Convict Ships*, p.171 (Irish arrivals 1800) and p.381 (Irish arrivals 1801-1802). Details are:-

<i>Minerva</i>	arrived 11 January 1800	landing 162 male and 26 female convicts.
<i>Friendship</i>	" 16 February 1800	" 114 " " - " "
<i>Anne</i>	" 21 February 1801	" 127 " " 24 " "
<i>Hercules</i>	" 26 July 1802	" 96 " " 25 " "
<i>Atlas (II)</i>	" 30 October 1802	" 188 " " - " "

⁴⁶ HRNSW, 4, pp.871-872. King to Portland.

⁴⁷ HRNSW, 4, p.937. 110 all ranks were on duty at Norfolk Island, and 22 OR's on board 'sundry vessels'.

⁴⁸ HRNSW, 4, p.832. Hobart to King of August 1802.

⁴⁹ HRNSW, 5, p.80. Government and General Order of 29 March 1803, for naval Lieutenant Bowen's appointment as commandant. An officer of the Corps (Lieutenant Moore), a corporal and eight soldiers made up this detachment, HRA, 1, 4, p.342, order of 15 June 1803.

garrison's strength had been reduced to:⁵⁰

'Sydney and outposts' - 9 officers and staff and 317 OR's.

'Parramatta and outposts' - 2 officers and 63 OR's.

'Hawkesbury' - 8 OR's.

A total troop availability of 399 all ranks on the mainland of the colony, compared to 547 in 1802. this was a reduction of 27 per cent. In the outlying detachments at Parramatta and Hawkesbury, it represented a cut of 38 per cent. This is significant considering that between December 1802 and the March 1804 insurrection, an additional 119 male Irish prisoners arrived by *Rolla*, prompting King to note in a dispatch 'we have so great a proportion' of Irish.⁵¹ It is claimed by Irish writer Con Costello that with this arrival 'the number of Irish convicts in New South Wales was estimated to be a quarter of the inhabitants and they were again causing trouble.'⁵² It is reasonable to speculate that the reduction in garrison strength encouraged the Irish leaders to have hopes of a successful rebellion. To give weight to such a proposition, George Suttor, in his *Memoirs* expressed surprise, that at Castle Hill, where there were 'fifteen hundred or more prisoners ... strange to say there was no military guard' at the time of the rebellion.⁵³ In Holt's opinion, 'the army lay in such a[n] awkward state that any one of skill would adapt a plan to take arms, magazine and all in one hour'.⁵⁴

The percentage of troops in Sydney compared to outlying posts was not constant. For example, in February 1803, King directed that because of 'the daring behaviour of the convicts ... a captain, subaltern, and fifteen non-commissioned officers and privates from headquarters [in Sydney] are to be added to the guard at

⁵⁰ *HRNSW*, 5, p.350.

⁵¹ C Bateson, *Convict Ships*, pp.338-339, for ship arrivals over this period, *Rolla* arrived in May 1803; p.381 for convicts disembarked. *HRNSW*, 5, p.221. King to Hobart of September 1803, for proportion of Irish,

⁵² C Costello, *Botany Bay, The Story of the Convicts transported from Ireland to Australia, 1791-1853*, Cork and Dublin, 1987, p.63.

⁵³ *Memoirs of George Suttor FLS Banksian Collector (1774-1859)*, ed. G Mackaness, Sydney: Australian Historical Monographs, Vol. XIII (New Series), 1948, p.47.

⁵⁴ J Holt, *A Rum Story*, p.79.

Castle Hill'.⁵⁵ At the same time other minor troop deployments were ordered. Soon after, King directed that officers were not to be released from outpost duty to sit as members of general courts martial because escalating problems including the circumstance that 'a number of Irish convicts had left those [outpost] places, and were committing great excesses'.⁵⁶

The centre of this trouble was at Castle Hill, from where fifteen Irish had absconded, who robbed, committed a rape and attempted murder, before making for rough country on the Hawkesbury. There they were located by Aboriginal trackers and arrested by troops.⁵⁷ King's concern over the Irish convicts at Castle Hill is understandable, with the majority not dispersed as assigned servants but retained as a concentrated group working as 'public labour'.⁵⁸ BH Fletcher points out that before King left England, he had been directed to 'promote the public cultivation' of land.⁵⁹ In response, in 1801, King advised London that he had selected Castle Hill as a site where 'the soil ... [is] of the best and most productive kind'.⁶⁰ Here he concentrated public agriculture which was more centrally located than the Hawkesbury and contained ample lands. In 1802, King also set aside 34,539 acres at Castle Hill as grazing land.⁶¹

⁵⁵ HRNSW, 5, p. 22. Government and General Order of 16 February 1803.

⁵⁶ HRNSW, 5, p.51 and footnote quotation. King to Johnston of 25 February 1803. Johnston, administering command, considered such directives interfered 'with the internal management of the Corps' (*ibid*, Johnson to King of same date). This exchange was part of an ongoing battle of wills between King and Johnston, regarding Johnston's determination to have Surgeon Harris replaced as judge-advocate at Kemp's court martial (see above, Chapter 8, pp.204-205).

⁵⁷ HRNSW, 5, footnote to p.58, for fifteen runaways, who in February 1803 caused this disturbance at Castle Hill, of which fourteen were sentenced to death (p.117) and two hanged (pp.74-75); p.300 for account of a rape, attempted murder, and use of Aboriginal trackers to capture the runaways.

⁵⁸ HRNSW, 5, p.323. King to Hobart of March 1804.

⁵⁹ BH Fletcher, *Landed Enterprise and Penal Society A History of Farming and Grazing in New South Wales Before 1821*, Sydney, 1976, p.30.

⁶⁰ HRNSW, 4, p.462. King to Portland of August 1801.

⁶¹ BH Fletcher, *Landed Enterprise*, p.31, for 'public agriculture', and p.37, for 34,539 acres.

Despite fifteen convicts absconding in February 1803, by September of that year King reported to London that the Irish were generally well behaved, which he attributed to them being given freedom to worship with their own priest, Father James Dixon.⁶² With this calmer atmosphere, and having the capability to quickly mobilise the Loyal Associations⁶³, King apparently accepted (although he had no other option) that a garrison strength of about 400 regulars was adequate. Yet, Holt recorded in February 1804:-

the Devil was busy in New South Wales as ever he was in Ireland. Both Irish and English men, seeing the torment increasing, they formed an opinion that they could conquer the army and get out of that country.⁶⁴

Despite the gathering storm, in two separate dispatches to Lord Hobart, of 1 March 1804, King reaffirmed the 'salutary effects' of religious tolerance practised towards the Irish. Then, indicating he had no informer warning of any rebellion being planned, King was almost apologetic that not all the troops could attend church each Sunday with the 'necessity for leaving a certain number in care of the barracks'.⁶⁵ In his second letter, King was 'happy to confirm ... the general quiet and orderly behaviour of the Irish convicts'.⁶⁶ This illustrates the very tight security maintained by the insurgents up to the eve of the uprising. From the two planned and failed attempts at insurrection of September 1800, the conspirators had learnt the bitter lesson to avoid being foiled by informers. After the rebellion, King in a Government and General Order referred to this lack of intelligence:-

The shortness of the time (only one day) between the first suspicion of such

⁶² HRNSW, 5, p.221. Dixon, a priest from County Wexford was sentenced to death in 1798. He was granted £60 per annum by King in 1803 because of his work with the Irish. Dixon was responsible for the behaviour of his congregation at Mass and their movement to and from the place of worship and also that there was no seditious conversation. C Costello, *Transported from Ireland*, pp.49-50; for Dixon's background. After the 1804 insurrection, the £60 was cancelled by King due to allegations that Dixon failed 'to prevent seditious meetings', HRA, 1, 5, p.99.

⁶³ HRA, 1, 4, p.323. Government and General Order of 22 October 1802. For volunteers' nominal rolls kept updated, arms and equipment held ready, and provision made for exercising the militia.

⁶⁴ J Holt, *A Rum Story*, p.79.

⁶⁵ HRNSW, 5, p.324.

⁶⁶ HRNSW, 5, p.331.

an extensive conspiracy going forward and its breaking out into actual outrage and rebellion, the discovery of the insurgents' intentions and proceedings, [limited] the consequent preparations of defence⁶⁷

Despite, as claimed by King, the possibility that this particular warning was a false alarm which 'so often occurred preventing any other than common precautions being used',⁶⁸ military counter-measures were implemented. But these statements of limited warning and false alarms were a quibble, a case of wisdom after the event. As opposed to September 1800, where early intelligence allowed pre-emptive actions to be implemented, now, by the time King received the warning, an insurrection had commenced.

The first warning of a planned rebellion came to the notice of the authorities on Saturday, 3 March. This was given to Captain Abbott, Commandant at Parramatta, by his overseer; the information coming from an Irishman named Keo, who had been approached, on the previous Thursday, to join the rebels. Keo was told the rising would take place on the Saturday or Sunday. This information was borne out on Sunday, 4 March, when two reports obtained by Captain Abbott, the detachment commander at Parramatta, and Reverend Marsden, magistrate at Parramatta, reached Sydney⁶⁹

At half past eleven o'clock on Sunday night, [when] an express was received by His Excellency, from Captain Abbot (sic), Commanding Officer at Parramatta, with intelligence that the Prisoners at Public Labour at Castle Hill, and the Settlers men, were in a state of Insurrection, and had already committed many daring Outrages⁷⁰

Therefore, there was not 'twenty hours'⁷¹ or one day's warning received in Sydney as stated by King, rather he was forced to react to circumstances. But this was done with

⁶⁷ *HRNSW*, 5, p.347. Government and General Order of 9 March 1804.

⁶⁸ *HRNSW*, 5, p.355.

⁶⁹ *HRA*, 1, 4, pp.566-567, for the three warnings, and footnote p.567 for this information reaching King at midnight. It appears surprising that Abbott's and Marsden's intelligence had not reached King earlier.

⁷⁰ *Sydney Gazette, And New South Wales Advertiser*, Vol. 2, No. 54, p.2, first column (54, p.2, a.) of 11 March 1804.

⁷¹ *HRNSW*, 5, p.355.

commendable speed and precision, indicating the implementation of a practised contingency plan.⁷²

As somewhat improbably reported in the *Sydney Gazette*, immediately Abbott's report of the insurrection was received, the alarm was sounded and within ten minutes 'the Military and Inhabitants [mainly, but not exclusively, the Sydney Loyal Association] were under Arms, and the Captain, Officers, Marines, and Ships Company of His Majesty's Ship Calcutta came on shore ... all Horses throughout the Town were held in requisition' and a company of the Corps dispatched to Parramatta.⁷³ At 00.15am, further intelligence was reported by Lieutenant Hobby, who reported 'the Insurgents to be in great force and advancing towards Parramatta in different directions'.⁷⁴

On receipt of this news, King handed over coordination of the defence of Sydney to Lieutenant-Governor Paterson and, mounted, 'proceeded unattended towards Parramatta', which suggests an impetuous, almost irrational, reaction under the stress of events.⁷⁵ Apparently Paterson, or another officer, realising the ill-advisedness of this action, corrected it when 'the Provost Marshall, four Troopers, and several confidential Persons mounted' caught up with King near Major Johnston's home, on the outskirts at Petersham. Now King showed sound judgment, dispatching one of the troopers to call on Johnston and order him 'to take Command of a Company of the New South Wales Corps then on their march from Sydney'.⁷⁶ At

⁷² HRA, 1, 3, p.47. Government and General Order of January 1801, being a critique of the colony's 'first practice alarm', to improve assembly procedures.

⁷³ More likely, orders for these actions were issued within ten minutes of the warning being received. HRA, 1, 4, p.569; the company's strength, before being joined by Johnston, was two officers (Lieutenant Davies and Quartermaster Laycock) and fifty-four other ranks.

⁷⁴ *Sydney Gazette*, 54, p.2, a. of 11 March 1804.

⁷⁵ JW Fortescue, *The British Army*, *passim*. Fortescue is often scathing in his condemnation of naval officers directing land operations. Here, King's actions as a governor-in-chief, support this view.

⁷⁶ *Sydney Gazette*, 54, p.2, a. of 11 March 1804. For King's departure from Sydney and his orders to Johnston at Petersham.

Petersham, Johnston assumed command of the men at 1.30am,⁷⁷ and being a sound officer 'ascertained that they [the troops' muskets] were all loaded and good flints in their Pieces'.⁷⁸ Meanwhile, King, now properly escorted, reached Parramatta at 4am on Monday, 5 March 1804.

On arrival, King was told by Abbott that huts had been burned at outposts and 'a great body of the Insurgents all armed, were at Park Gate, at the West Entrance of Parramatta'.⁷⁹ This latest information, together with the dispositions and strengths of his own forces, and local knowledge of the country, was the intelligence on which King based his counter-insurgency planning. From his later orders, it would appear that King's concept of operations was that the tired Sydney troops were to probe for, locate, and pin down the main force of insurgents. Then the fresh troops of the Parramatta garrison (presumably less a small security force holding the town) would be deployed to where the main concentration of rebels was located and overwhelm them. This may explain the apparently surprising decision to order tired troops to continue following up the rebels, while the bulk of the fresh forces, including the majority of the Parramatta Association, were retained at Parramatta.

From Petersham, the Sydney company covered the thirteen and a half miles to Parramatta at a steady infantry pace of three miles per hour, arriving at 5am. Johnston halted at the barracks for twenty minutes to refresh his party, then marched to Government House, Parramatta, for his orders. Here his troops rested until they were

⁷⁷ *HRA*, 1, 4, p.569. The distance from Sydney Cove to the turn off to Johnston's property was just under four miles, a distance that the troops could be expected to march in slightly over one hour, therefore the company departed at about 00.30am, having been assembled, armed and issued ammunition in the hour from when the alarm bell rang at 11.30pm, a reasonable response time. *HRNSW*, 3, frontispiece map of 1796 for distances.

⁷⁸ MB Eldershaw, *The Life and Times of Captain John Piper*, Sydney, 1973, p.55. Johnston to Piper (on duty Norfolk Island) of 12 April 1804.

⁷⁹ *Sydney Gazette*, 54, p.2, a. MB Eldershaw, *Captain John Piper*, p.56: for what Johnston was told on arrival at Parramatta, including the strength of the rebels at the 'Park Gate' numbered '5 or 600'.

paraded prior to moving out at 6.30am.⁸⁰ Johnston recorded that at Government House, King 'gave me his Orders in *writing*'.⁸¹ Johnston's emphasis on the word 'writing', underscores the unusual situation of a naval officer, even though he was 'Governor and Commander-in-Chief', who, without any prior consultation with his senior army commander, Major Johnston, planned and committed to paper a directive for an army operation. Regarding these orders, Johnston later told Piper 'I cou'd not read it ... he [King] might as well have given me Greek, he then read it himself'. King directed, that Johnston 'with half the Detachment [of the Sydney company of 54 other ranks] ... was to go in quest of the Rebels' numbering '5 or 600' who had been at the Park Gate. Then, 'if I did not meet them there to proceed to Toongabbe, and then wheel in to the right and go to Castle Hill, where I was to wait for further orders'. Johnston later wrote that Lieutenant Davies, commanding the other half of the company, 'had different [unspecified] instructions'.⁸² But, if accurate, a later report in the *Sydney Gazette*, may explain what occurred. This stated that Davies' task was to proceed 'along the Castle Hill Road, that place being appointed for the Rendezvous, in case nothing should occur to make those Officers [Johnston or Davies] alter the directions they were under'.⁸³ Johnston could have justifiably been concerned about this order, which split his company up into "penny packets", with the risk that one of these could have been defeated by the reported '5 or 600' rebels.

Johnston's attitude to these orders is evident in his comment to Piper that when King 'desir'd me to fire upon any person that attempted to run away when

⁸⁰ HRA, 1, 4, p.569. Johnston to Paterson of 9 March 1804. *Sydney Gazette*, 54, 2, a, of 11 March, for departure time from Parramatta.

⁸¹ MB Eldershaw, *Captain John Piper*, pp.55, for the orders in writing.

⁸² MB Eldershaw, *Captain John Piper*, p.56. Johnston referred to only two detachments going in pursuit of the rebels, however, he noted Davies' detachment had with them 'Lieut't Brabyn and his party', HRA, 1, 4, pp.568-569. Johnston to King of 6 March. The *Sydney Gazette*, 54, p.2, b, of 11 March, mentions a third party under command of Lieutenant Brabyn, presumably from the Parramatta garrison. Possibly Brabyn commanded a party which reinforced Davies detachment in the same way as Johnston had armed civilians added to his detachment.

⁸³ *Sydney Gazette*, 54, p.2, a, of 11 March 1804. King's orders allowed the detachment commanders a degree of flexibility should they establish contact with the rebels.

call'd to [halt] ... I told him [that] was all I wanted.' This would refer to King advising Johnston (that in accordance with military law when insurrection threatens the state⁸⁴) he had declared martial law in Parramatta and outlying districts; a powerful weapon allowing the authorities to take harsh action with the suspension of civil law. In this proclamation, King held out an olive branch to the rebels (and a potentially useful bargaining point for the military) that 'every person ... in a state of rebellious opposition' had twenty four hours to give themselves up, otherwise they would 'be tried by a Court-Martial and suffer the sentence passed upon him or them'.⁸⁵ While King was briefing Johnston regarding counter-measures, the rebels had enjoyed a full night of undisturbed freedom of action to continue with their preplanned campaign.

Details from later interrogations of prisoners were reported in the *Sydney Gazette*, including the rebels' plan for the insurrection.⁸⁶ Strict security was maintained until Thursday 1 March, when disaffected elements at Hawkesbury were given warning to be ready to rise during the coming weekend. This was the

⁸⁴ *Manual of Military Law (MML)*, London, 1914, pp.3-4. In a legal sense, the term "martial law" is to a degree misleading as per the following quotation:-

in the arbitrary times of our [British] history attempts were made to apply military law to the civil population, such attempts have long been recognised to be illegal. Martial law, in the proper sense of the term, can be established ... only by Act of Parliament or of the local legislature (a).

Footnote (a) reading:-

In a British possession under the direct legislative authority of the Crown a proclamation of martial law by the Crown would be as effective as a Statute in the United Kingdom.

Therefore, King in 1804 had the power to declare martial law. He could also have justified his actions in the other sense in which the term is used, as explained below:-

In time of invasion or rebellion ... exceptional powers are often assumed by the Crown, acting usually ... through its military forces ... and the expression "martial law" is sometimes employed as a name for this common law right of the Crown and its servants to repel force by force.

See below, Chapter 3, footnote 33 and Chapter 4, footnote 36, for this author arguing that principles and practices which governed military law in the early Australian colonial period are closely linked with those practised when the *Manual* was published in 1914. *MML*, Chapter 2, 'History of Military Law', pp.6-14, *passim*, for numerous examples to verify this argument. For example; Note (c), p.7, states 'It is easy to trace in the Articles of Richard II, the germ of the Articles [of War] of 1878, and having regard to the changes in custom and manners, the difference in the character of the regulations is less than might have been expected.'

⁸⁵ *HRA*, 1, 4, pp.570-571, for Proclamation of 5 March 1804.

⁸⁶ *Sydney Gazette*, 54, p.2, b-c, of 11 March 1804, for details of plot.

information which reached Abbott on Saturday. The rising, planned to begin at 8pm, Sunday, 4 March 1804, was signalled by rebels ringing bells and burning one of their own huts at both Castle Hill and Toongabbe (Figure 19⁸⁷) 'in order to excite tumult and alarm'.⁸⁸ The password was 'Saint Peter'.

Answering the call to arms, some 200 rebels gathered at Castle Hill, and, presumably to strengthen their resolve, or in misplaced over-confidence, were told that Parramatta and Sydney were already overcome. Confirming this later press report, Holt's book recorded what John McGowan, a rebel witness, afterwards stated before a board of magistrates. McGowan alleged Holt told him that:-

I [Holt] had more than half the soldiers on my side, ... the moment they [the rebels] was to come to Parramatta, the soldiers was to do the rest, ... I was to have ammunition for the whole party, and that I was to go to Sydney and take Dawes Point and the Magazine and put the Governor to death⁸⁹

Such rumours circulated amongst the convicts would rally supporters to the rebel cause. Certainly, McGowan used this as his excuse for joining.

Under direction of Philip Cunningham,⁹⁰ a former soldier,⁹¹ groups of rebels

⁸⁷ R Clancy and A Richardson, *So Came They South*, Silverwater, 1988, p.161, map by de Freycinet, published 1809. From measurements made on this and other contemporary maps, approximate road/track distances from Parramatta were:-

to Sydney Cove - 17 miles;

to Castle Hill - 6 miles (but one contemporary account gives the distance as 8 miles);

to Toongabbe - 3 miles

to Hawkesbury, via Toongabbe - 15 miles.

Note the central location of Toongabbe, as an ideal rendezvous for rebels from outlying settlements to gather before marching on Parramatta.

⁸⁸ *Sydney Gazette*, 55,p.2, b, of 18 March 1804. John Cavenah's house at Castle Hill and Bryan Spaldon's at Toongabbe being burnt.

⁸⁹ J Holt, *A Rum Story*, pp.85-86. Evidence by John McGowan of 24 March 1804. He was proved an unreliable witness during cross examination by Holt. No reference to this is in *HRA* or *HRNSW*. Holt's self justifying writing is also suspect.

⁹⁰ *Sydney Gazette*, 55, p.2, b. Cunningham, (from County Kerry: refer; C Costello, *Transported from Ireland*, p.51) was involved in the mutiny on *Anne* (refer Chapter 6 for *Anne*). After being sent to Castle Hill, he was appointed overseer of the government stonemasons and was erecting for himself 'a stone building of considerable value' at the time of the insurrection. By virtue of his appointment, Cunningham, also Humes (see below, footnote 92) was ideally placed to move around and conspire, or send messages, with a minimum chance of creating suspicion.

⁹¹ J Holt, *A Rum Story*, p.199. Note 104.

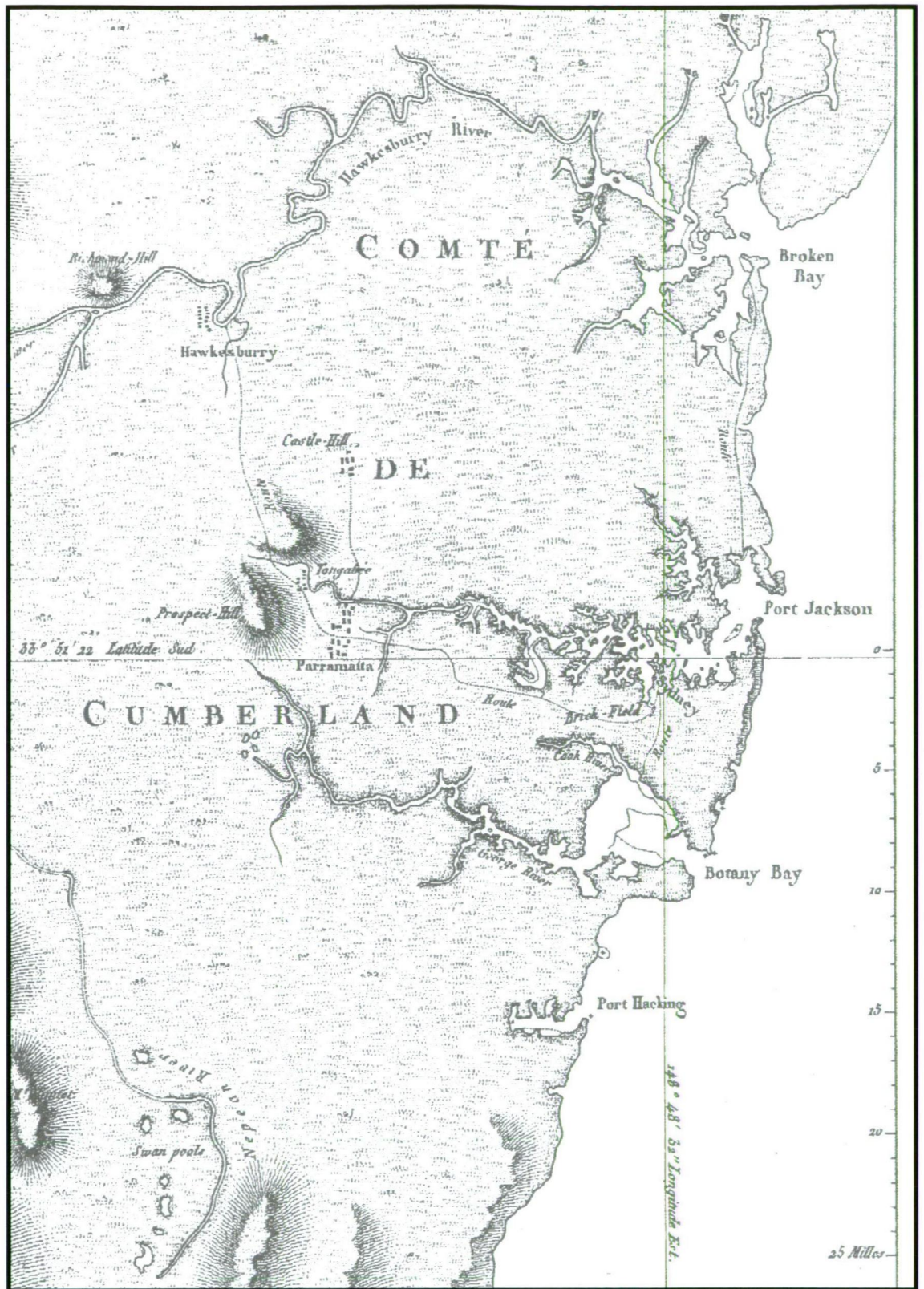


Figure 19: Routes to and from Parramatta

were dispatched in different directions to plunder arms and ammunition from settlers' huts. As a result of this part of the plan, Samuel Humes,⁹² commanding a group of seventy, failed to later meet up with the main body, and was therefore not present to add this weight of numbers when the rebels and military clashed. In conformity with their plan, according to the *Sydney Gazette*, the Castle Hill and Toongabbe rebels linked up, and commenced the march to Hawkesbury, where they hoped to increase their force to about 1100 insurgents. The rebels then planned to return to Castle Hill, presumably during Monday night, before marching on Parramatta on Tuesday morning. If this is so, this was apparently the weakest point in their planning, as with the loss of surprise they threw away any hope of overrunning Parramatta.

Neither the *Gazette's* report of the rebel plan, nor any accounts of their subsequent actions, offered any explanation why the massed insurgents noisily demonstrated at Parramatta's western gate in the early hours of Monday. This was the closest the insurgents came to the town, and as they made no offensive move, this marked the passing of any momentary advantage they enjoyed before moving north to Hawkesbury. Earlier in the evening they would have had the benefit of surprise and darkness, compounding the defenders' sense of confusion and uncertainty as to where the rebels would strike. Additionally, government troop reinforcements from Sydney could not have arrived in Parramatta on that first night. The seizure of Parramatta, and additional arms and ammunition available there, were critical, as a preliminary to marching on Sydney, from whence the insurgents planned to embark on ships 'ready to receive them'⁹³. By withdrawing through Toongabbe towards the Hawkesbury, rather than advancing, the rebels' hopes were almost guaranteed doomed before a shot was fired by the government forces.

Had the rebels quietly gathered in Toongabbe, stealthily approached and

⁹² *Sydney Gazette*, 55, p.2, b. Humes at the time of the insurrection was overseer of carpenters and 'had a convenient house, and received also many indulgences'.

⁹³ *Sydney Gazette*, 54, p.2, c.

attacked Parramatta, they could conceivably have overrun the town. As previously noted, in Holt's opinion a skilfully laid plan (presumably using surprise) to attack the barracks, could have resulted in the capture of 'arms, magazine and all in one hour'. Against this supposition, the barracks guard, if alerted by Abbott on the basis of the information received earlier, probably had the capability to repel attacks on that palisaded installation. But, after their noisy uprising at Toongabbe, and vociferous demonstration on the outskirts of Parramatta, the rebels forfeited any reasonable hope of success against the already marshalled garrison of over sixty regulars supported by up to thirty six volunteers of the Parramatta Loyal Association.⁹⁴ This disciplined force, with more fire power than their attackers, would have easily held the barracks, thus containing the situation, until the arrival of reinforcements from Sydney, allowing King to launch a daylight counter stroke.

In retrospect, it is easy to fault the weakness of the rebel plan in not launching an immediate strike against Parramatta, but their problems in coordinating movements of scattered groups of declared insurgents, and also enticing, or forcing, others to enlist in their cause, were difficult. More warning time to ensure coordinated movements of scattered supporters would have further compromised security. It would appear that the rebel leaders considered it was safer to concentrate first at Hawkesbury, sacrificing surprise, in favour of getting the maximum number of supporters to join their ranks. While this tactic had a certain logic, the rebel cause may have been better served if the more ardent revolutionaries from Hawkesbury had been instructed to also rendezvous at Toongabbe on Sunday evening, accepting that others may later join their cause.

A different version of why the rebels did not attack Parramatta on Sunday night, or early Monday, was given by Mrs Elizabeth Macarthur. She believed that an important detail in their plan went astray. Later she recorded:-

⁹⁴ *HRA*, 1, 4, p.580, for strength of regulars and p.578 for Loyal Association.

The Irishmen ... were at the Park Gate making hideous shouts and waiting as was afterwards found out only for the signal of Two Fires in the Town to make their descent ... One of these fires was to have been my House or some part of the Premises. This ... was artfully contrived to catch the attention of the soldiery. The Rebels saw that the consideration of my lonely situation and the attachment the soldiers had to my family would induce them upon seeing the Fire to repair instantly to my relief and the Barracks would be easily secured to themselves. The other fire was to be a thatched hut in the Town. Thank God all was happily prevented.⁹⁵

Mrs Macarthur did not specify how or why she believed the rebel signal failed to eventuate. But, it is suggested by one historian that from the time the alarm was sounded about 9pm, until the rebels reached the town's outskirts some hours later, the Parramatta garrison had time to prepare their defences. This could account for the insurgents drawing back to Toongabbe rather than attacking.⁹⁶ Irrespective of whether the Macarthur or *Sydney Gazette* account, was more correct, the rebels, massed at the western edges of Parramatta, lost their one possible chance of overrunning that town.

Based on King's orders of early Monday morning, Johnston wrote 'I directly divided the Detachment ... taking Mr. Laycock and the other half with me I march'd [at 6.30am] as quick as possible to Toongabbe.' In addition to the soldiers, Johnston, who was mounted, was accompanied by a mounted trooper, Handlesack⁹⁷ of King's bodyguard, Father Dixon probably mounted, and about twenty 'arm'd Inhabitants' of Parramatta.⁹⁸ At Toongabbe, Johnston learned that about 400 rebels were 'laying on Sugar loaf Hill, all well arm'd'. Most likely this is the prominent feature, shown on

⁹⁵ MB Eldershaw, *Captain John Piper*, pp.59-60. At this time Captain Macarthur had been sent to England under arrest and Mrs Macarthur had to cope on her own. This being the reason why the rebels expected the soldiers to come to her aid. No other primary sources have been noted which refer to the rebels' proposal to burn a Macarthur building as the attack signal.

⁹⁶ C Coulthard-Clark, *Where Australians Fought, The Encyclopaedia of Australia's Battles*, St. Leonards, 1998, p.2.

⁹⁷ *HRA*, 1, 4, p.574. Shown in proceedings against rebels as 'Thos. Andlesack one of H.E. Body Guard'.

⁹⁸ These 'arm'd Inhabitants' were probably members of the Parramatta Loyal Association, detailed to support Johnston's detachment. Johnston does not clarify this point. In fact, his report to King of 5 March 1804 (*HRA*, 1, 4, p.568) adds to uncertainty as to who accompanied him. Johnston wrote 'my thanks are due to the two Troopers, the activity of Mr. Smyth, the Constables, and other men that accompanied us from Parramatta.'

Figure 19, about two miles north-north-west of the village. Johnston immediately deployed his force to clear the hill. He sent a corporal, four soldiers and 'about 6 or 8 Inhabitants (arm'd with muskets)' to work up the Hawkesbury Road (see Figure 19) to take the rebels in the flank while the remainder of his troops and armed civilians ascended the face of the hill.⁹⁹ But on reaching the top, the insurgents had already departed northward along the Hawkesbury Road. The detachment, after reforming, continued its march, most likely with Johnston and the mounted trooper riding ahead of the marching column, commanded by Laycock.¹⁰⁰

Here, it should be noted that a false mythology has grown up, and been perpetuated, that the troops continued their pursuit from Toongabbe *at the run*. This appears to have been accepted by some historians.¹⁰¹ It originated with two statements, considered suspect, in authoritative contemporary documents quoted below. Firstly, a General Order, of 9 March 1804, which included praise of the Sydney company's pursuit of the insurgents, noted:-

Their active perseverance and zeal, notwithstanding the fatigue they had undergone *in running after a body of 266 armed rebels upwards of seven miles* [emphasis added] from the place [Toongabbe] where certain information was received of them¹⁰²

This was followed, on 11 March, by the *Sydney Gazette's* account of the rebellion. It referred to Johnston at Toongabbe, where he:-

received information that a considerable Body were on their way to the Hawkesbury: Notwithstanding the fatigue of his small Detachment ... *they immediately ran in good Order* [emphasis added] with their followers, and after a pursuit of Seven Miles farther, Major Johnston and a Trooper, who

⁹⁹ From the map, the road comes up onto the top of the feature on its western side, this being the detachments' left flank.

¹⁰⁰ MB Eldershaw, *Captain John Piper*, p.56: for detail in this paragraph.

¹⁰¹ See above, Chapter 5, quotations from: I Grant, *A Dictionary of Australian Military History*, Milsons Point, 1992, p.263 also G Odgers, *Army Australia an Illustrated History*, Frenchs Forest, 1988, p.13, for laudatory comment on the role played by the Corps, which by inference accepts that the "valiant" soldiers ran the seven miles. M Austin, *The Australian Army ... A Brief History*, Canberra, reprinted June 1985, p.1, provides an example of how the myth of the Corps great stamina had expanded. Austin wrote 'the Corps ... military efficiency was such that during the Castle Hill rebellion in 1804 the troops marched from Sydney Cove to Parramatta in three hours'.

¹⁰² HRA, 1, 4, p.572.

proceeded the Detachment came up with the rear of the Insurgents at 11 o'clock, whose numbers have since been ascertained to be 233 men¹⁰³

While there is a minor discrepancy concerning the number of rebels being pursued, both separate primary sources agree on the distance *run* by Johnston's detachment.

That the tired, but determined soldiers ran all the way following the rebels is now firmly enshrined in the mythology of the uprising. However, this does not make military sense. No reasonable commander would "double march" fresh, let alone tired battle equipped soldiers, for an indefinite distance in an endeavour to catch up with a larger fleeing enemy force.¹⁰⁴ Particularly not, if there was an expectation that on contact, they immediately go into action. This mythology supported by claims in the General Order and *Sydney Gazette*, may be tested by simple time and distance

¹⁰³ *Sydney Gazette*, 54, p.2, a, of 11 March 1804. There is a minor time discrepancy here as Johnston, in a field report to King of 5 March, stated that the detachment at 'about half an hour before eleven ... came up with the Runaways [rebels]' (*HRA*, 1, 4, p.567). However, in his later detailed report to Paterson (pp.569-570) Johnston makes clear that he and Trooper Handlesack first contacted the rebels, and then deliberately dragged out negotiations until 'the detachment just then appeared in sight' (p.570). Therefore, it is probable that it was about 11am by the time the soldiers deployed and opened fire.

¹⁰⁴ *Some Early Records of the Macarthurs of Camden*, ed. S MacArthur Onslow, Sydney, 1914, pp.47-48. In 1795, Mrs Macarthur described the Sydney to Parramatta road as a 'very good carriage road'. She then went on to describe how she once travelled by horseback to Hawkesbury: 'The road is through uninterrupted wood, with the exception of the village of Toongabie ... and one or two' other places. From this it is deduced that the "road", compared to that to Sydney, was a track, suitable for riding or marching. It passed through some hilly country.

calculations, to determine the likelihood of whether the troops ran or marched.¹⁰⁵

Based on this, it is asserted that the soldiers' speed over the ground indicates they marched rather than ran (even if they had been physically capable of doing so) from Toongabbe towards the Hawkesbury. This then raises the question, why did two authoritative colonial documents state that the soldiers ran seven miles?

The tendency, especially after a military success, to portray the victors in the best possible light, is not uncommon. As both the General Order and *Sydney Gazette* stated the soldiers ran, this writer accepts that they did run at some stage, but not for the whole seven miles. The *Gazette's* comment that the soldiers 'ran in good Order, with their [civilian armed] followers', can be construed to mean the running soldiers were in good order when they came up to confront the rebels. A reasonable explanation to explain this would be that when Laycock realised the need for speed, to support Johnston in a dangerous predicament, Laycock ordered the troops to "double march" into their firing positions.

While it may appear inconsequential to consider this detail at length, it is suggested that this examination of two accepted contemporary records is justified.

This episode emphasises a weakness which can develop in historical research.

¹⁰⁵ The detachment left Parramatta at 6.30am, moved three miles to Toongabbe, then a further seven miles (according to the primary sources quoted above) up the Hawkesbury Road, where the rebels were contacted at 11am - a total of ten miles from Parramatta, covered in four and a half hours. This represents an average speed of 2.2 miles per hour. But this does not make allowance for time lost when the troops deployed at Sugar Loaf Hill. Allowing a maximum possible time of an hour for this delay at Toongabbe, the average time over the ground from Parramatta would then have been at a rate of 2.86 miles per hour - a steady and unhurried marching pace, suited to uneven terrain, tired soldiers and the accompanying armed civilians.

Calculated in a different way, if a generous one and a half hours is allowed for the detachment's forced march to Toongabbe (MB Eldershaw, *Captain John Piper*, p.56; for 'marched as quick as possible' - no reference to running) and subsequent deployment at Sugar Loaf, the troops would have departed from Toongabbe at about 8am. As contact was made with the rebels at 11am, it took them approximately three hours to cover the seven miles, that is they moved at an average speed of 2.33 miles per hour. But, Johnston in his report to his commanding officer, Lieutenant Colonel Paterson, stated he pursued the insurgents for ten (not seven) miles from Toongabbe to where contact was made (*HRA*, 1, 4, p.569). If this was so, the time over the ground has to be accordingly adjusted from 2.33 to 3.33 miles per hour, which is still only .33 miles per hour in excess of what is considered, from military experience, a normal route march pace.

Namely, if reputable primary sources are not subjected to rigorous questioning regarding minor details in a document, significant errors of fact may be overlooked. Further, although these two separate authoritative primary source documents corroborate each other, this does not necessarily prove that either, or both, were correct regarding the matter being probed. In none of Johnston's military reports, nor in his letter to Piper, does he refer to the detachment running.¹⁰⁶ Nevertheless, Johnston mentioned to Piper that after first contacting the rebels, he then returned to the marching column and ordered Laycock to 'push forward with the soldiers (10 file our only front)' indicating that the troops were to quickly deploy for action, probably at "the double".¹⁰⁷ This could have led the *Sydney Gazette*, misreporting that the soldiers ran the whole seven miles.¹⁰⁸

In any event, action was at last initiated when Johnston and Handlesack first saw the tail end of the rebel mass moving northward along the track. Apparently, at the time the rebels were first sighted, Johnston and Handlesack were riding in close proximity to the marching soldiers. Johnston instructed Handlesack to ride ahead waving a white handkerchief 'as a flag of truce and acquaint them the Governor was coming, as I thought that might delay them'. Handlesack must have been a brave man riding right up to the insurgents, and trying to convince them to surrender. Although they 'wou'd hear no terms', the rebels allowed Handlesack to return to Johnston having removed the flints from both his pistols.

¹⁰⁶ HRA, 1, 4, pp.567-568, for Johnston's field report to King of 5 March. For his after action report of 9 March 1804, to Paterson, pp.569-570. For letter to Piper, MB Eldershaw, *Captain John Piper*, pp.56-57.

¹⁰⁷ MB Eldershaw, *Captain John Piper*, pp.57-58. The term '10 file our only front' is taken to mean that Johnston ordered the troops to be deployed in two ranks (lines) which had a limited frontage of only ten soldiers. The cartoon, Figure 20 (refer following paragraph) shows the troops lined up in two ranks of twelve or more, plus three armed civilians on a flank and to the rear.

¹⁰⁸ HRA, 1, 4, p.563. King to Hobart of 12 March 1804. King advised that as he was fully occupied dealing with the aftermath of the insurrection, he enclosed a copy of the *Sydney Gazette*'s account to provide Hobart with a detailed report. King stated that this was 'collected and arranged by those who were less occupied than myself, and is a tolerable accurate account'. Therefore, it is possible that rather than the *Gazette* repeating details in King's order of 9 March, describing the seven mile run, King may have obtained this information from a draft copy of the *Gazette*'s account, later published on 11 March.

Johnston now requested Father Dixon to go forward and offer King's amnesty terms to the rebels. Dixon too was unsuccessful, 'in (as described in a contemporary account) bringing back the insurgents to a proper sense of their duty.'¹⁰⁹ About this time, a rebel separated from his compatriots was captured, and said that the main group was about half a mile ahead. Ordering Laycock to continue advancing, Johnston and Handlesack spurred forward, and found the rebels now occupying an open feature, Rouse Hill, sometimes called "Vinegar Hill". Coming within pistol range, and expecting 'to be riddled every minute', Johnston called on the rebels to surrender. The insurgents unsuccessfully attempted to entice Johnston into their ranks, he in turn, succeeded in taunting two of their 'Captains', Philip Cunningham and William Johnston, to move out from their position and negotiate with him. Major Johnston 'reasoned with them ... to stop the effusion of blood' offering to bring forward Father Dixon 'to convince them they were wrong'. He returned to the marching column to 'bring up the Priest' and while this stratagem further delayed the rebels from moving away, Johnston seized the opportunity to order Laycock to push forward in a tactical fighting formation.

Johnston and Handlesack, now accompanied by Dixon, returned to within pistol range of the main rebel body. 'With some reluctance' Cunningham and William Johnston were again enticed out from the rebel ranks to speak with Major Johnston and Father Dixon. The rebel leaders again refused to surrender and 'prevent Bloodshed'. Major Johnston later wrote that 'at last I asked Cunningham what he wanted? his reply was Death or Liberty'. Thereupon, observing that Laycock's men had come up ready to engage the rebels, Johnston drew his pistol from his sash, and with the action cocked held it at Cunningham's head, taking him prisoner. With presence of mind, Handlesack (who presumably had replaced his

¹⁰⁹ DD Mann, *Picture of New South Wales*, p.14. Mann describes Dixon's conduct during the rebellion as 'exemplary'.

confiscated flints) followed suit, and captured William Johnston.¹¹⁰ A well known cartoon depicts this incident (Figure 20¹¹¹), with the two rebels armed with swords, no match against pistols. This cartoon also shows Dixon, some distance away, on foot, possibly a representation of when the priest first spoke to the rebels rather than his location at the time the captures were made. Johnston and Handlesack smartly 'drove them [the two prisoners] into the Detachment'.¹¹²

At the time Cunningham was being escorted either towards, or into, the detachment lines, he must have made some move, or uttered some oath, which Laycock took to be hostile or offensive. The result was Cunningham received a severe sword wound to the head (depicted in Figure 20), and to all appearances left dead on the road.¹¹³ With his troops now lined up in two ranks facing up the slope towards the rebels, this minor diversion did not distract Laycock, when he received Johnston's orders 'to advance and fire and instantly charge'. A murderous exchange followed, in which none of the soldiers were hit, but the rebel casualties were '12 killed, 6 wounded, and ... 26 prisoners',¹¹⁴ an abnormal ratio in land warfare where wounded usually exceed those killed.¹¹⁵ For the untrained and leaderless insurgents, it was a slaughter as they fled in all directions from the trained soldiers. The killed to wounded ratio (2:1), indicates the soldiers served out rough illegal "justice", without being called to stop by their officers. The 'only fault' that Johnston could later find

¹¹⁰ C Coulthard-Clark, *Where Australians Fought*, p.3, states 'Johnston and the trooper quite dishonourably drew pistols'. Johnston's actions compared unfavourably with the rebels who releasing Handlesack, and twice did not fire when Johnston and Handlesack were negotiating within pistol range. No contemporary criticism of Johnston's action has been noted, which was probably considered a legitimate tactic, concluding the deliberate time wasting negotiations.

¹¹¹ R & T Rienits, *A Pictorial History Of Australia*, Middlesex, 1969, p.70.

¹¹² HRA, 1, 4, p.567.

¹¹³ *Sydney Gazette*, 54, p.2,b, of 11 March 1804.

¹¹⁴ HRA, 1, 4, p.570.

¹¹⁵ B Harvey, *The Rifle Brigade*, London, 1975, p.43. For example, the Rifle Brigade, in the thick of the fighting at Waterloo, had 60 killed and 27 missing (presumably a total of 87 dead) against 370 wounded, a ratio of 1 killed : 4.25 wounded. Again, a subaltern, who was wounded three times in World War I, noted that 'fortunately, the chances of getting wounded [in that war] rather than killed were about four to one', HEL Mellersh, *Schoolboy into War*, London, 1978, p.169.



Figure 20: Cartoon of Major Johnston and the rebel leaders at "Vinegar Hill"

with his men 'was their being too fond of Blood'¹¹⁶ This comment about his troops' uncontrolled behaviour, reflects poorly on the mounted Johnston, whose mobility would have enabled him to exercise restraint over his troops. No accolades can be given to the officers and men of the Corps for this inglorious skirmish, sometimes grandly referred to as the "Battle of Vinegar Hill", a name recalling the rebel defeat in Ireland of June 1798.

Included amongst the total of Vinegar Hill prisoners were William Johnston and the badly wounded Cunningham, who had to be carried when Johnston continued his march to Hawkesbury. There, 'to make an immediate example of, by virtue of Martial Law ... [Cunningham was] publicly executed on the Stair Case of the Public Store'.¹¹⁷ Possibly this was done to prevent him dying of his wound before he could be court martialled. Holt's version was 'Cunningham was ... hanged, though he was dead, to show example.'¹¹⁸

Following the uprising, ten rebels 'were selected from upwards of 200 taken with arms in their hands', to be tried by court martial under the provisions of martial law. They were all sentenced to death, with eight being executed, including Samuel Humes and William Johnston, the only two to be 'hung in chains'. The rebels were not exclusively Irishmen, or Roman Catholics, and JE Gallagher noted that 'at least two' of the men hanged were convicted in England, and of the nine executed including Cunningham 'that [4?]' were Protestants.¹¹⁹ This supports Holt's statement that 'The English got as much attached to the business as the Irish.'¹²⁰ Seven other rebels were sentenced by magistrates to be lashed, also two other men were punished 'for concealing the rebellious proceedings of the Insurgents assembled on the 4th and 5th

¹¹⁶ MB Eldershaw, *Captain John Piper*, pp.56-58: for Johnston's narrative in this and the preceding paragraph.

¹¹⁷ *Sydney Gazette*, 54, p.2, b.

¹¹⁸ J Holt, *A Rum Story*, p.81.

¹¹⁹ JE Gallagher, 'The Revolutionary Irish', *The Push From The Bush*, No.19, April 1985, p.5.

¹²⁰ J Holt, *A Rum Story*, p.79.

March 1804'. Additionally, '50 of the worse description of Insurgents' were sent to reopen the coal mines at Coal River, now Newcastle. Finally, suspected instigators of the rebellion were sent to Norfolk Island.¹²¹

In King's dispatch to Hobart giving details of the rebellion, he also requested an increase to the colonial garrison's strength.¹²² This increase was intended to boost external security 'should we be attacked by a foreign enemy', and internal security against 'a repetition of any future attempts from the deluded' Irish. King's concern was understandable in the wake of the March 1804 uprising, coupled with the reduction in the Corps' strength the previous year. King made two other specific requests. That his five man mounted trooper bodyguard, recruited from 'well-behaved English convicts who have been light horsemen' be expanded to a total of thirty, because of their proven value during the uprising. The other request was that two artillery officers and three non-commissioned officers be sent out to train selected privates from the New South Wales Corps. The intention was to form an artillery detachment to man the 'four travelling six-pounders besides the batteries' then in the colony. In amplifying remarks on this last point, King noted that as an interim measure, the Corps' Adjutant, Ensign Minchin, 'who has formerly been in the artillery, ... will train a certain number of the volunteer housekeepers to the use of the field-pieces'.¹²³ This last statement would appear to contradict the opinion of military historian Brigadier Austin, referred to in Chapter 7, that prior to joining the Corps,

¹²¹ *HRA*, 1, 4, pp.564-565, for selection of rebels, Commentary Note 199, p.694, for 'worse description of the Insurgents'. For courts martial and punishments, pp.573-577.

¹²² *HRA*, 1, 4, p.565.

¹²³ *HRNSW*, 5, pp.356-357. King to Hobart of 12 March 1804. See third footnote, p.356 for loss of details of King's request for the Corps' increased strength. All quotations in this paragraph, unless otherwise stated, are taken from these pages.

Minchin had no previous military training.¹²⁴ Whatever Minchin's capabilities, King's requests to strengthen the colonial garrison appear reasonable and were probably formulated in discussions with Paterson. The only response to this was from the incoming Secretary of War and Colonies, Viscount Castlereagh, who gave approval for Minchin 'to instruct the Volunteers in the use of the Great Guns, provided it does not interfere with his [adjutant's] Duties.'¹²⁵ As Britain had 'called Napoleon's bluff' by terminating the Treaty of Amiens, 'suddenly' declaring war on France in May 1803, it is understandable that this was the sole response to King's appeal.¹²⁶

The insurrection of March 1804 was an atypical occurrence, as never before, nor after, did a convict uprising seriously threaten the fabric of colonial government. Despite the republican influence of the American and French Revolutions, all contemporary accounts of the insurrection suggest that it was Irish nationalism rather than Jacobinism which inspired the convicts. As noted by Costello, the rebel shout 'they would be free or die' was a link to 1798.¹²⁷ In the view of another author:-

Because of its timing, and links with France, it has been assumed that the 1798 Irish rebellion was in the tradition of the then new and modern popular demand for liberty, equality and fraternity, a radical nationalist demand for freedom. In reality it was an anachronism, a harking back to the desperate and primitive uprisings of seventeenth-century Ireland, riddled with localism, sectarianism, and sheer savagery: essentially it was an outbreak ... of

¹²⁴ M Austin, 'William Minchin of the New South Wales Corps', *JRAHS*, Vol. 50, Pt. 6, December 1964, p.414. Austin brushes aside the suggestion, based on King's comment, that Minchin had military service in artillery before he joined the Corps, because Minchin 'did not have to be in the artillery to receive artillery training. Battalion guns were issued to infantry regiments as late as 1803.' This writer agrees with Austin that Minchin had no time to be artillery trained while being on strength of the Corps, as adjutant. He joining the Corps in November 1797, then embarking on *Lady Shore* in March 1798. See above, Chapter 7, p.154, footnotes 6-7, for author's comment that Minchin probably had some military experience, possibly with the artillery, before being appointed adjutant of the Corps.

¹²⁵ *HRA*, 1, 5, p.489. Letter of July 1805. Castlereagh replaced Earl Camden that month. Any reinforcements to New South Wales were of low priority. The Battle of Trafalgar in October 1805, removed a French threat of invasion to England or the West Indies.

¹²⁶ D Johnson, 'Amiens 1802: The Phoney Peace', *History Today*, Vol.52(9), September 2002, p.26.

¹²⁷ C Costello, *Transported from Ireland*, p.51.

barbarous rural anarchy.¹²⁸

Nevertheless, the twin concepts, of Irish freedom from England, and republican liberty as espoused by Jacobins, were interwoven as both sought the same end. This was illustrated in King's comments on the confiscated private papers of Scottish martyr Margarot, a suspected instigator of the rebellion. These were found to contain 'many republic sentiments ... [also] against the executive authority in England' which made Margarot 'a most dangerous character to any society'.¹²⁹ Irrespective of whether "liberty" was the catchword of the Irish nationals or republican Jacobins, its connotation in the early colonial period was one of concern to the conservative authorities. The *Sydney Gazette* of 18 March 1804 wrote of rebels who had:-

The notion instilled in their minds that Liberty was the object of their unhappy contest [contest] ... The profligate ... is not here at liberty to prosecute his abandoned courses; and the welfare of Society requires [requires] that he should be restricted: But to encourage Amendment is the most distinguishing feature of our happy Government¹³⁰

The message to dissidents was clear, improved conditions were to be gained by evolution under the British crown, not by revolutionaries seeking liberty. As J Ritchie points out, apart from such exhortations, a dread of further rebellion haunted the authorities, which led to the infliction of savage punishments on convicts, even in cases of unproven suspicion.¹³¹ Even after King was replaced by Governor Bligh, suspicion was rife. In February 1807, 546 persons living in the hinterland from Hawkesbury to the Nepean, addressed Bligh as having 'enrolled our names for the Defence of the Country'. Their concern was not a possible French threat, but rather:-

the real and presumptive proofs exhibited ... now and for many years past by those disaffected People, of their relentless and incorrigible spirit of

¹²⁸ P O'Farrell, *The Irish In Australia*, Kensington, 1987, pp.32-33.

¹²⁹ HRNSW, 5, p.451. King to Banks for 'republic sentiments'; p.447, to Under Secretary Sullivan, for 'dangerous character'; both letters of August 1804.

¹³⁰ *Sydney Gazette*, 55, p.3, a-b, of 18 March 1804.

¹³¹ *A Charge of Mutiny, The Court Martial of Lieutenant Colonel George Johnston for deposing Governor William Bligh in the Rebellion of 26 January 1808*, introduced by J Ritchie, Canberra, 1988, Introduction, pp.xvii-xviii.

Rebellion, Murder, and Atrocity, keeping liege Subjects in constant alarm¹³²

An Englishman and settler, George Suttor, wrote understandingly of the rebels of the March 1804 uprising. Suttor, despite having 'three muscats placed to my breast, and myself and [my] wife narrowly escaped being shot',¹³³ considered that the rebels 'were very much oppressed by the task masters and badly fed ... [but] being mostly Irish, a spirit of liberty and insubordination was amongst them.'¹³⁴ Reinforced by denial of religious freedom until 1820,¹³⁵ such an emotive anti-English attitude could be expected to be handed on by many of these ethnic Irish to their children, and then to their children's children, as a lingering cultural trait. Over a century later, and in the wake of the Easter Uprising in Dublin, this still influenced many Irish descendants to support Archbishop Mannix in successfully opposing the October 1916 and December 1917 referenda on conscription. In his study of *Australia's Irish Republican Brotherhood*, G O'Keeffe wrote:-

From 1788 until recently, British and Irish-Australians were antagonists, imbued with old-world hatreds. Such enmity was manifest in the final years of the Great War when large elements of the two communities were at loggerheads over conscription and the 'Irish question'.¹³⁶

The 1804 insurrection had a deeper historical significant than simply a clash between the military and some Irish convicts. Also the rebellion showed that, despite their many faults, soldiers of the New South Wales Corps had the ability to carry out their duty in maintaining internal security under a challenging circumstance.

¹³² HRA, 1, 6, pp.578-579.

¹³³ HRNSW, 5, p.351. Suttor to Banks of 10 March 1804; pp.350-352, for Suttor's account of the rebellion.

¹³⁴ *Memoirs of George Suttor*, p.47.

¹³⁵ M. Hogan, *The Sectarian Strand Religion in Australian History*, Ringwood, 1987, p.24. After "Vinegar Hill", King cancelled his approval for Dixon to minister to Catholics. It was not until 1820 that two Catholic priests were allowed to again minister to colonists of that faith.

¹³⁶ G O'Keeffe, 'Australia's Irish Republican Brotherhood', *JRAHS*, Vol.83, Pt.2, December 1997, p.136.

Chapter 10

External Security in the Era of the Naval Governors after Phillip

External security of New South Wales, at the time of the First Fleet and early settlement, was considered in Chapter 1. Potential Dutch hostility had been assuaged by limiting the colony's western boundary to east of 135th meridian of longitude with any foreseeable French or Spanish moves checked by the occupation of Norfolk Island. But this was not a static situation. This chapter considers the effects within the colony of uneasy peace in the aftermath of the War of American Independence, and the renewal of wide ranging hostilities up to 1808, in the period of the Revolutionary and Napoleonic Wars. 1808 marked the start of insurrection against the French in Spain, and commencement of the Peninsula War, which saw Britain and Spain allied.¹ This removed any mutually antagonistic transpacific external threat. The period also corresponded with the era during which naval officers were governors of New South Wales.²

The fluctuations in strength of the colonial garrison which resulted from British Empire needs in war or peace, is considered in chapters dealing with internal security³ and demonstrates the close interrelationship between colonial internal

¹ J Hicks and D Howarth, 'Mistress of the Seas', Part IV, Chapter 2, *The Horizon History of the British Empire*, ed. SW Sears, Nederland: American Heritage Publishing Co., Inc., 1973, p.87, for post-1783, William Pitt's efforts to restore Britain's power by encouraging trade also troubles with Dutch and Spanish: pp.88-95, for Revolutionary and Napoleonic Wars to Trafalgar, 1805. Montgomery of Alamein, *A Concise History of Warfare*, London, 1972, p.222, for Third Coalition (1805-1807), and p.228 for events leading to the Peninsula War.

² The temporary administrations of the colony under Grose and Paterson are not treated as a separate period.

³ See above, Chapter 7, pp.156-157, for the New South Wales Corps augmented for offensive operations against the Spanish; see above, Chapter 9, pp.218-219, for reductions in the Corps' strength, due to the Peace of Amiens, limiting troop availability prior to the rebellion of 1804.

security and external demands of imperial defence. Similarly, lack of attention in London to defensive requirements of a distant and relatively unthreatened colony was understandable, especially after 1798 when the War and Colonial Offices were combined under one Secretary of State who had far reaching responsibilities and only a small departmental staff.⁴ Banks, in a letter to Hunter wrote of that department, and the Revolutionary War 'which stand foremost in their minds, and [therefore] colonies of all kinds ... are now put into the background.'⁵

Tench's journal offers an understanding of how officers serving in the colony believed external factors could impinge on New South Wales' security. In the public reading of Phillip's commission on 7 February 1788⁶, Tench noted that by siting the western border of the colony to the east of the 135th meridian of longitude, 'future litigation between the Dutch and us will be forever cut off'.⁷ Also, from the earliest days in the colony, there was a consciousness amongst the officers that the present peace was fragile, especially with the French Kingdom wishing to re-establish naval parity, if not superiority, over Great Britain. The French aim was to regain their colonial possessions lost in India, and probe new regions for trade and colonial expansion.⁸ As part of this process, a new French East India Company was formed in 1785. Knowledge of these moves was verified from British diplomatic and clandestine sources, including Captain Arthur Phillip himself whilst acting as a spy in France during the mid-1780's.⁹

As well as an ill defined French threat, naval interdiction of the new colony by the Spanish, could not be completely ruled out. In December 1790, a letter written in Dutch, was received at Sydney Town, and translated with difficulty.

⁴ See above, Chapter 8, p.188, footnote 6, for War and Colonial Offices.

⁵ *HRNSW*, 3, p.532. Letter of February 1799. Also, see below, Chapter 12, for similar observations by Edward Macarthur after arriving in England in September 1808.

⁶ See above, Chapter 3, pp.48-49 and footnote 22.

⁷ W Tench, 1788, *Comprising A Narrative of the Expedition to Botany Bay and A Complete Account of the Settlement at Port Jackson*, Melbourne, 1996, p.47.

⁸ G Callender, *The Naval Side of British History*, London, reprinted 1925, pp.181-182. Britain gained naval superiority late in the War of American Independence, at the Battle of the Saints, in April 1782. H Richmond, *Statesmen and Sea Power*, Oxford, 1946, p.163, for post-war period.

⁹ See above, Chapter 2, p.19 and footnote 10.

According to Tench, this advised that war had commenced between England and Spain. He continued:-

Placed out of the reach of attack, both by remoteness and insignificance, our only dread lay lest those supplies intended for our consumption should be captured. Not, however, to be found totally unprovided in case of an enemy should appear, a battery was planned near the entrance of Sydney Cove¹⁰

While building a defensive battery was an appropriate action, in the event it was not essential as war was not declared on Spain. Indeed, after the execution of Louis XVI in January 1793, France declared war on England, the Netherlands and Spain. Nevertheless, tensions between Britain and Spain could have led to war in 1789 over conflicting claims to Nootka Sound on the north-western Pacific coast of North America. This was a serious issue for Spain as it challenged her claim to the "Pacific Lake", but without French support, she could not risk war with Britain.¹¹ As an indication of British determination to press the Nootka claim, between April and October 1790 Pitt's administration 'readied some forty-three line-of-battleships and ... its fleet of frigates for sea, increased the number of its enlisted seamen from 17,300 to 55,000, and of its marines ... to 5,300.'¹² In making preparations to claim British sovereignty over the Sound, an expedition, commanded by Captain Vancouver RN, was ordered 'to form a settlement on the no.-west coast of America'.¹³ Phillip was directed to give limited logistical support to Vancouver's ships.¹⁴ For the first time, the colony's geographic position was recognised by the British as having some strategic value in international affairs.

¹⁰ W Tench, *Narrative of the Expedition*, p.179. Apparently this is a reference to the first battery erected in the colony, on what is now Bennelong Point, see above, Chapter 3, p.47 and Figure 6.

¹¹ OHK Spate, *The Spanish Lake, The Pacific since Magellan, Volume 1*, Canberra, 1979, p.59. Spate considers that Spain's hold on the Pacific 'in a territorial sense' was not disputed until the Nootka crisis. A Frost, *The Global Reach of Empire, Britain's maritime expansion in the Indian and Pacific oceans 1764-1815*, Carlton, 2003, p.226, for Spain's lack of allies.

¹² A Frost, 'Botany Bay, Nootka Sound, and The Beginnings of Britain's Imperialism of Free Trade', *Bulletin of The Centre for Tasmanian Historical Studies [BCTHS]*, Vol.3, No.2, 1991-1992, p.4.

¹³ HRNSW 1, Part 2, p.312.

¹⁴ HRNSW, 1, Pt. 2, pp.312-313. Grenville (Secretary of State, Home Office) to Phillip of March 1790. Footnote to p.312, for a changed role for Vancouver, to one of discovery, which still included the north western Pacific coast of North America: p.668, Vancouver to Phillip of October 1792, Vancouver discovered and named 'King George the Third's Sound', the future site of Albany.

While the officers in New South Wales visualised a possible threat from the Spanish, the opposite also applied. In September 1788, a Spanish naval captain, Munoz, reported to Madrid that Botany Bay posed two threats to the Spanish Empire. An immediate threat was that British aggressive trade practices could foster a contraband trade with the Americas leading to destruction of Spanish commerce in the Pacific. Secondly, in time of war, Munoz considered:-

The [British] settlers will be able to fit out lucrative privateers, so as to cut all communication between the Philippines and both Americas; they will think perhaps of extending their possessions, or they may influence some revolution which would diminish ours.¹⁵

This was not unreasonable speculation about a possible enemy, whose forces had occupied Manila in October 1762, and with whom, from 1778 to 1783, they had recently been at war.¹⁶ Despite this suspicion, Spain could have gained some temporary reassurance regarding British intentions in the Pacific from that part of Phillip's and Hunter's Instructions which directed that no colonial maritime trade be allowed on the Chinese coast or Pacific islands where 'intercourse has been established by any European nation'.¹⁷ But such a view could have been offset by a reading of the governors' commissions, which failed to proscribe an eastern boundary for the new colony which stretched indeterminably to 'islands adjacent in the Pacific Ocean'.¹⁸ This concerned Captain Alexandro Malaspina, commanding two Spanish naval corvettes, which visited Sydney Town in March-April 1793. Regarding this indefinite boundary, he wrote that this embraced:-

Eastward all the Islands of the Pacific discovered by National [British] Ships.

Here begins to be discovered the true idea of the British Government. In

¹⁵ R.J. King, *The Secret History of the Convict Colony Alexandro Malaspina's report on the British settlement of New South Wales*, North Sydney, 1990, p.4.

¹⁶ A Frost, *Global Reach of Empire*, p.35, for Manila and p.89 for France and Spain at war with Britain during the American War of Independence.

¹⁷ HRA, 1, 1, pp.15 and 524 respectively.

¹⁸ HRA, 1, 1, p.711, Commentary Note No. 1, Governor King interpreted this wording to include Tahiti, likewise Macquarie regarded New Zealand to be under his jurisdiction. DD Mann, *The Present Picture of New South Wales 1811*, Sydney, 1979, p.24, for contemporary confirmation. HRA, 1, 7, p.5. Foveaux to Castlereagh of February 1809, claiming the same for 'the Fejee Islands'. Such interpretations do not appear to have been contradicted by London. See above, Introduction, p.xiii, for presumed intention of those who framed the original commissions.

the first place, was it merely Geographic Position which, in preference to all, invited the establishment of a colony in Botany Bay;¹⁹

This unpleasant realisation, reported by Malaspina, would have been confirmed by the early occupation of Norfolk Island, as directed in Phillip's Instructions.

Additionally, the Nootka Sound claim, which preceded Malaspina's visit to Port Jackson, demonstrated Britain's determination to resist the Spanish claim to the Pacific.

Officially the purpose of the Spanish visit was to conduct a scientific and political expedition through the Southern Atlantic and Pacific Oceans.²⁰ RJ King writes that while in Port Jackson, the Spaniards carried out 'astronomical, meteorological and tidal observations collected botanical, animal and avian specimens, studying the geology ... the Aborigines, and making a pictorial record'.²¹ But, he believes:-

The visit to Sydney Cove had a deeper purpose. ... Included in the secret tasks of the expedition were the preparation of comprehensive political reports on the new Russian and English settlements in the North and South Pacific: Alaska, Nootka Sound, and Botany Bay.²²

The Spanish government's political interest in approving Malaspina's voyage is understandable. To Major Grose, administering the colony, and to Malaspina, it was not known at the time of the visit that the British and Spaniards were allied against France (from February 1793). But such knowledge would have made no difference to Malaspina in carrying out his secret orders. Historically, the Spanish requirement for such intelligence was justified as the alliance with Britain lasted only until 1795. By 1796, Britain and Spain were at war, and the British and Spanish colonial governors would have had a mutual concern about possible

¹⁹ RJ King, *The Secret History*, p.95.

²⁰ RJ King, *The Secret History*, p.2, for visit outline and also that Governor Phillip had been given prior warning of the visit by a letter from the Colonial Office of June 1790, including instructions to pay the Spaniards 'every attention'.

²¹ RJ King, *The Secret History*, p.2.

²² RJ King, *The Secret History*, p.3. R.J. King does not quote a primary source to support this statement. However, in a dispatch of April 1793 (*HRA*, 1, 1, p.427) Grose reported to London that the Spanish 'seemed to evade any questions put to them respecting their future intentions.' King's assertion appears reasonable, based on Malaspina's quotation given in the next paragraph.

transpacific raids.²³ Reporting on his visit, Malaspina considered that the Port Jackson settlement presented a major threat to colonial Spain. He wrote:-

from whence with the greatest ease a crossing of two or three months through healthy Climates and secure navigation could bring to our defenceless coasts [of South America] two or three thousand cast-away bandits to serve interpolated with an excellent body of regular Troops.²⁴

Malaspina's strategic analysis was sound. It will be recalled from Chapter 7, that in February 1797 the Home Secretary advised Governor Hunter that the New South Wales Corps was to be augmented. This was in preparation for deploying four companies on offensive operations against Spanish possessions.²⁵ A further illustration is noted in Collins' journal, and in Hunter's dispatch to London of May 1799, that a Spanish prize was sailed to Port Jackson. This prize had been captured by two letter of marque whalers, off the coast of Peru. One of these whalers had been refitted at Port Jackson before sailing for South America. The conclusion Hunter drew from this incident was that 'this colony may prove at some future period, *from its situation* [Hunter's emphasis], a settlement of much importance in case of either a Dutch or Spanish war.'²⁶

In January 1800, Hunter reported that another Spanish prize had been sailed into Port Jackson. He commented 'we cannot be surpriz'd ... if it shou'd provoke a visit from some of the ships of war from the Spanish settlements on that coast'. In an endeavour to be prepared for such a visit, Hunter then described defensive works undertaken, within the limitations of conflicting priorities of agriculture and essential building in the colony.²⁷

²³ JW Fortescue, *A History of The British Army, Vol.4, Pt.2, 1789-1801*, London, 1906, p.799, for Britain at war with Spain, as a result of a Franco-Spanish alliance under the Treaty of San Ildefonso of August 1796.

²⁴ RJ King, *The Secret History*, p.6.

²⁵ This operation never eventuated, for details, see above, Chapter 7, pp.156-157.

²⁶ HRNSW 3, p.670. Hunter to Portland of May 1799. D Collins, *An Account of the English Colony in New South Wales*, Christchurch, undated, p.411.

²⁷ HRNSW, 4, pp.7-8. Hunter to Portland. In May 1803 (HRA, I, 4, p.148) King echoed Hunter's warning that Spanish warships on the South American Pacific coast could be a 'hazard' to British commercial vessels.

Historically, New South Wales did not suffer from any direct offensive Spanish action. Nevertheless, as appreciated by both Captains Munoz and Malaspina, Port Jackson could be used as a forward base to threaten Spanish America. New South Wales had already been assigned a minor role in the Nootka Sound affair and, as mentioned in Chapter 7, the secret operation (later cancelled) involving four companies of the New South Wales Corps. However, the Spanish authorities were probably only aware that Port Jackson had been used by successful privateers. Presumably, being defensively orientated, the Spanish colonial authorities, did not use their naval capability to raid British Pacific outposts.²⁸ They would have been more concerned with inshore patrols for protection against raiding privateers, while countering any unauthorised coastal movements. Meanwhile on land, the emphasis would probably have been on garrisoning defended forts and posts, policing native populations, and being ready to counter internal threats of rebellion. The two botched British operations against Buenos Aires in 1806 and 1807, mounted respectively from the Cape of Good Hope and England, showed the Spanish defensive policy, while not generally considered good tactics, was realistic.²⁹ While these land operations were disastrous, they did demonstrate the flexibility bestowed by Britain's sea superiority. The failure of the French, before Trafalgar, to make use of similar opportunities in the Indian and Pacific Oceans, is considered later in this chapter. This French lack of initiative, combined with Spain's failure, or inability, to mount naval operations in the Pacific, negated any risk arising from inadequate naval protection for New South Wales.³⁰

²⁸ HRA, 1, 4, p.148. King to Hobart of May 1803. About early 1803, the Spanish warships on the South American Pacific coast consisted of; 'Two frigates, a ship of 50 guns (that sails very ill - built in Peru), two armed whalers, a cutter-brig, and a lugger.' There would have been little hope of Spanish reinforcements on the Pacific coast as the main priorities of the Spanish Admiralty would have been joint operations with the French in the Mediterranean and Atlantic, where the critical battle for naval superiority against the British was being fought.

²⁹ J.W. Fortescue, *History of the British Army*, Vol.5, London, 1910, pp.310-317 and 369-437, for details of British operations. As colonial militias in both cases were responsible for the British defeats, this in turn encouraged insurrections, which from 1807 commenced spreading throughout the Spanish colonies.

³⁰ HRA, 1, 3, p.327. King to Portland of November 1801. King's concern was that naval ships were not available to fetch supplies, rather than for defence requirements. E Scott, *Terre Napoleon, A History of French Explorations and Projects in Australia*, London, 2nd. ed.1911, footnote, p.14. Summarises references from *Historical Records of New South Wales*, in which a lack of naval support was criticised.

While there was no Spanish action against New South Wales, there were instances where Spanish warships tried to intercept convict transports in southern Atlantic waters after their departure from Rio de Janeiro. In November 1799, the transport *Minerva* twice narrowly avoided capture. On the first occasion, after being signalled by a Spanish frigate to 'heave to'³¹, *Minerva* after a two day close chase finally out sailed her pursuer. Some days later, the second contact was initiated by the British ship against two Spanish vessels 'One was a "galleon", and the other looked like a "prison ship". They were a tempting bait'.³² Captain Salkerd on *Minerva*, ordered the guns ready and decks cleared for action. "General" Holt, with a knowledge of cannon, was asked by the First Mate 'would I fight I answered 'Yes''. Holt was allowed to select his own gun crew of 'six proper resolute' Irishmen, whose gun was charged with grape shot.³³ *Minerva* did not get the opportunity to open fire as the prison ship was a decoy frigate which ineffectually fired its first (and only) broadside as *Minerva* quickly tacked about. Holt later admitted to the First Mate:-

had we come to action, ... the very first gun I should have fired should have taken the poop cabin and steerage away. Which would be quite a prevention of my seeing Botany Bay.

With 'Captain Cox ... on the poop at the head of his 24 marines or soldiers', such a shot disabling both his own ship's steerage and her defenders would have guaranteed Holt either freedom or (as happened with the mutineers and crew of *Lady Shore*) a Spanish prison.³⁴ Cox confirms Holt's account, but, probably mistakenly, Bateson in a brief reference to the incident states 'The *Minerva* [was] ... chased and fired on by two ships flying Portuguese colours'.³⁵ Bateson gives the date of this contact as 1 October 1799, before the ship reached Rio de Janeiro.

³¹ W Cox, *Memoirs of William Cox, J.P., Lieutenant and Paymaster of N.S.W. Corps*, Sydney, 1901, p.25.

³² W Cox, *Memoirs*, pp.26-27.

³³ J Holt, *A Rum Story, The Adventures of Joseph Holt Thirteen Years in New South Wales (1800-12)*, ed. P O'Shaughnessy, Kenthurst, 1988, p.43.

³⁴ J Holt, *A Rum Story*, pp. 44 and 43, for respective quotations. See above, Chapter 7, pp.183-184, for *Lady Shore*.

³⁵ W Cox, *Memoirs*, pp. 26-28. C Bateson, *The Convict Ships 1787-1868*, Glasgow, 2nd ed., 1969, p.159.

With Spain at war with Britain, while Portugal was a friendly neutral, Bateson's unreferenced account is suspect. Nevertheless, the two *Minerva* incidents demonstrate the double threat to transports *en route* to the colony - from Spanish as well as French ships.

It has been noted that Hunter considered Sydney Town to be a settlement of importance in case of either a Dutch or Spanish war. Collins agreed with this opinion, and added 'in event of a Dutch war ... [Sydney offered] a reception to the prizes of our cruizers, a [Vice-Admiralty] court whereat they could be condemned, and a market for their cargoes'.³⁶ What then was the relationship between the colonial authorities in the Dutch East Indies (now Indonesia) and New South Wales, when, from 1795, their home governments were in a state of war against each other?

Following the French invasion and occupation of the Netherlands in March 1795, Holland was retitled the "Batavian Republic" and became a satellite ally of France. However the Prince of Orange fled to England, authorising governors of Dutch overseas possessions to hand over their authority and security to the British during the war.³⁷ Therefore, virtual neutrality existed between the British and Dutch colonial possessions with no call for privateers based in Sydney to raid the Dutch East Indies or *vice versa*. Nevertheless, there was at least one recorded instance where a British whaler 'bearing a letter of marque' captured a Dutch vessel in the East Indies and sailed it to Port Jackson to be disposed of through the Court of Vice-Admiralty.³⁸ Further, the British occupation of Ceylon (now Sri Lanka), and especially the Cape of Good Hope, helped remove threats to communications between England and New South Wales. This was a period of relatively benign

³⁶ D Collins, *An Account*, p.411.

³⁷ J Hicks and D Howarth, 'Mistress of the Seas', p.89. For Prince of Orange's instruction, and Cape of Good Hope resisting and its later capture. RE and TN Dupuy, *The Collins Encyclopedia of Military History From 3500 B.C. to the Present*, London, 4th ed., 1993 p.745. Note is made of an unusual action, the Dutch fleet, immobilised by ice, was captured by French cavalry in 1795. HRA, 1, 4, p.678, Commentary Note 107, for period 1795 to 1806. In 1806 Napoleon installed his brother on the throne of Holland.

³⁸ HRA, 1, 5, p.172. King to Hobart of December 1804; pp.812-813, Commentary Note No. 54, for details.

neutrality, which lasted until Napoleon's brother, Louis Bonaparte, was installed on the throne of Holland in 1806. In that year, a Dutch squadron, sent out to the Indies during the Peace of Amiens, was destroyed by a British fleet in the 'roadstead of Batavia'.³⁹

In 1808, Louis appointed a new governor-general, Marshal Herman Daendels, to the Dutch East Indies. Daendels was ordered to sacrifice the economic wellbeing of that colony to prepare to defend Java and other key islands against attack. In response, a British force from India, in a short colonial campaign, took over Dutch possessions in the East Indies in 1811.⁴⁰ From 1808 until 1811, during the period of Daendels' governorship, because the colonial Dutch were more concerned with defensive rather than offensive operations, their hostile status had no effect on the security of New South Wales.⁴¹

The attitude of the French towards the British differed to that of the Dutch. Whether under a monarchy, republican government, or Napoleon himself, there were successive French voyages of exploration in the Indian and Pacific Oceans, all of which Britain viewed as a threat to their present or future interests. This rivalry applied to exploration and possible colonisation of the fabled *Terra Australis Incognita*. In 1768, de Bougainville, had been deflected northward by the Great Barrier Reef. It is a matter of speculation what may have been the French course of action had de Bougainville discovered the lush coast of today's Queensland and claimed that region for France. In the courts of Europe, a claim by de Bougainville would have been considered legitimate by right of discovery, as this was two years before Cook discovered and annexed the continent's east coast.⁴²

³⁹ DGE Hall, *A History of South-East Asia*, London, second ed. 1966, p.444. For benign neutrality before the arrival of Daendels, Hall writes 'The one aim of the Dutch authorities ... was to avoid giving any support to the French and thereby force the British to invade Java.' (p.444).

⁴⁰ DGE Hall, *A History of South-East Asia*, pp.450-451.

⁴¹ For Dutch East Indies: CP Fitzgerald, *A Concise History of East Asia*, Kowloon, 1966, pp.243-244; DGE Hall, *A History of South-East Asia*, pp.443-453, and p.449, for General JW Janssens replacing Daendels before the British attack.

⁴² H Rosenman, 'But for Cook? France Australe? Terre Napoleon? French Navigators and the Great South Land', *Symposium paper: The French-Australian Cultural Connection*, 1983, p.46.

It will be recalled from Chapter 1 that during the *ancien regime* (of Louis XV 1715-1774 and Louis XVI 1774-1792), French expeditions by Keruelen-Tremarec and la Perouse probed the coasts of Australia, and in 1772, a claim of doubtful authenticity was made by Saint Allouarn over part of the western coast of New Holland.⁴³ Then, following the disappearance of La Perouse's ships, Bruny d'Entrecasteaux was dispatched in 1791 to find the missing expedition. In 1792, d'Entrecasteaux spent considerable time making scientific observations in southern Van Diemen's Land, as did the later expedition of Nicolas Baudin. From these voyages, the French authorities were aware of the excellent fleet anchorage provided by what is now the River Derwent. Had the French mounted an expedition against Sydney, or established a settlement elsewhere, this harbour would have made Van Diemen's Land an island of strategic significance, particularly after the British discovered the important maritime route through Bass Strait.⁴⁴ Both d'Entrecasteaux and Baudin explored parts of the mainland coast. Despite France and England being in a state of war, Baudin's expedition, which took place during Napoleon's term as First Consul, was sanctioned by Great Britain as being of a scientific nature, and the French ships carried a British Admiralty Passport.

In 1802, Baudin's naval vessels were the first French ships to visit Port Jackson since the commencement of the Revolutionary War with Britain in 1793. This continuity of French scientific expeditions gave Governor King reasonable cause for concern.⁴⁵ Such expeditions by Britain's traditional enemy, were seen by King as evoking 'the probability of the French having it in contemplation to make a settlement on the NW coast (of [the] straits)'.⁴⁶ After Baudin's arrival in Sydney in June 1802, he did his best to dispel King's suspicions by allowing the latter to

⁴³ See above, Chapter 1, pp.5-6.

⁴⁴ Bass's whaleboat exploration of 1797, led him to surmise a strait existed. This was confirmed in 1798, when he and Flinders circumnavigated Van Diemen's Land.

⁴⁵ H Rosenman, 'But for Cook?', p.49.

⁴⁶ HRA, 1, 3, p.490. King to Portland of 21 May 1802. King could be expected to be concerned, as Lieutenant Murray, in *Lady Nelson*, had only discovered Port Phillip in January 1802 and surveyed the bay in February 1802 (p.795, Commentary Note 191). Meanwhile, King was alerted to Baudin's expedition being in Bass Strait waters by the arrival of *Naturaliste* at Port Jackson in April 1802 (p.509).

examine, at his leisure, both the French ships' orders, journals, and charts.⁴⁷ The contentious issue of Baudin naming a lengthy section of the mainland's southern coastline *Terre Napoleon* (Figure 21⁴⁸) did not arise, as this name was apparently bestowed by Baudin, after he left Sydney and returned to Australia's southern waters.⁴⁹ Nevertheless, despite generalised suspicions of French intentions, heightened by the recent state of war,⁵⁰ the British Admiralty Passport was honoured when Baudin's ships reached Port Jackson.

King gave every assistance possible to Baudin's ships. Without help from British sailors, the scurvy racked crew of *Geographe* could not have worked their ship into Port Jackson.⁵¹ Except for unfounded allegations by New South Wales Corps officers regarding French illicit sales of rum, cordial relations were preserved during the five month visit.⁵² But although King conceded that the French had done outstanding work 'in every branch of Natural History'; even before they departed Port Jackson, he reiterated in a dispatch to London a previously stated opinion:-

I am inclined to think ... that collecting alone is not the principal object of his [Baudin's] Mission, ... that they have an intention of looking for a place ... [for a penal settlement] on the W. or N.W. Coast [of Australia, also] ... they may have some intention of laying claim to Van Diemen's Land ... How far either or both of these conjectures may be probable I cannot say⁵³

H Rosenman comments that it was not quite the case that the French intended to establish a settlement, as Napoleon's real motive in authorising Baudin's expedition was to 'ingratiate himself with the French scientific community'.⁵⁴

Only hours after the departure of the French ships, King was informed by

⁴⁷ E Scott, *Terre Napoleon*, p.206. Also, *HRNSW*, 5, p.133. King to Banks of May 1802.

⁴⁸ R Clancy and A Richardson, *So Came They South*, Silverwater, 1988, pp.164-165. From 1812 French map by P Lapie. Note 'G. Bonaparte' (Spencer Gulf), as another name which would add to British concern.

⁴⁹ R Clancy and A Richardson, *So Came They South*, p.162.

⁵⁰ *HRA*, 1, 3, p.627. The Peace of Amiens was announced in Sydney on 14 June 1802. Baudin's ship, *Geographe*, arrived off Sydney Heads on 22 June 1802 (p.697).

⁵¹ *HRA*, 1, 3, p.509. *Naturaliste* put into Port Jackson for needed supplies and water, for twenty-three days in April/May 1802. Subsequently, refer p.697, *Geographe*, was assisted into port in June 1802 (see also E Scott, *Terre Napoleon*, p.186) She was later joined by *Naturaliste*, forced back by bad weather.

⁵² See above, Chapter 8, p.203. Captain Kemp and Adjutant Minchen, being the main offenders.

⁵³ *HRA*, 1, 3, p.698. King to Hobart on 9 November 1802.

⁵⁴ H Rosenman, 'But for Cook?' p.48.

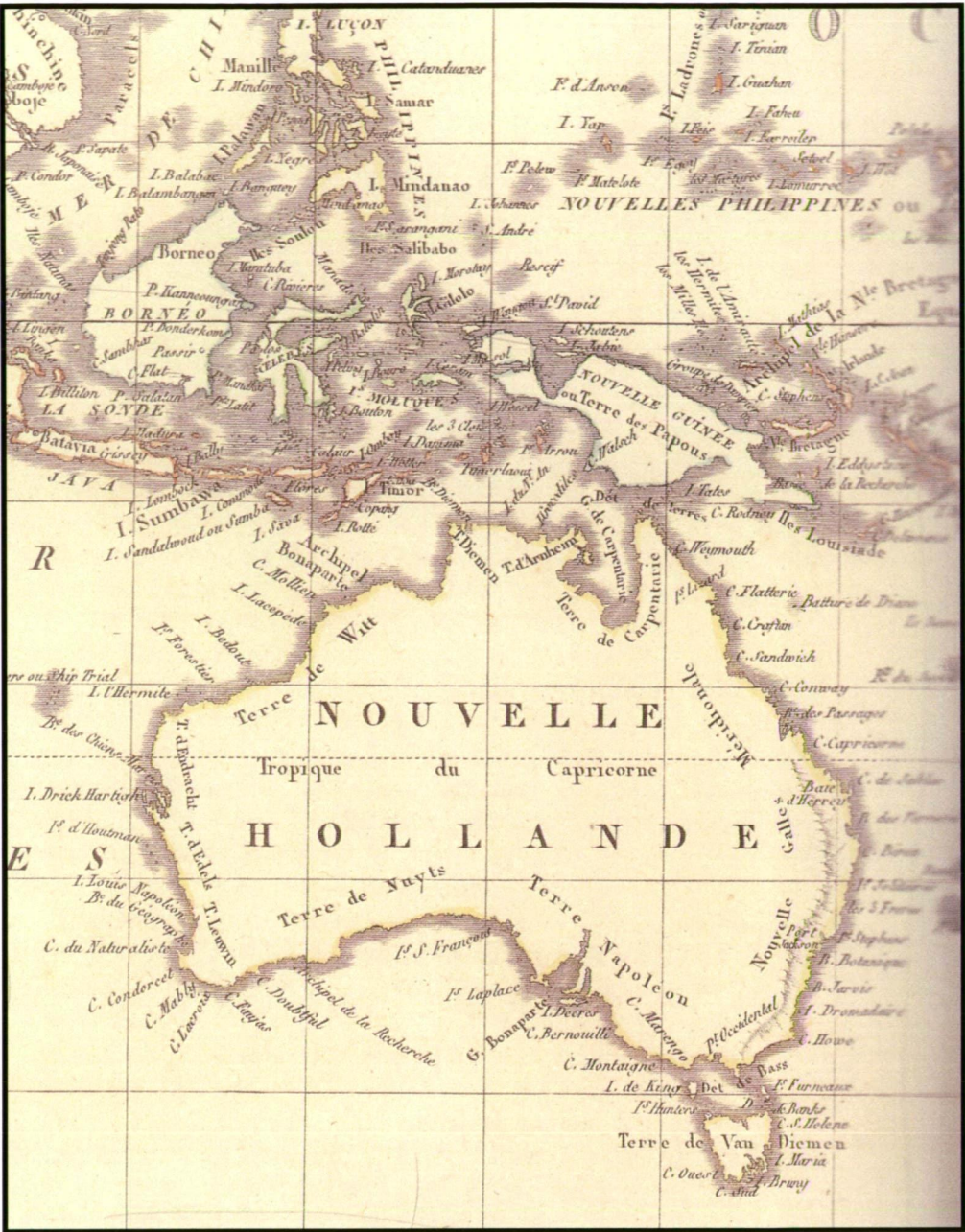


Figure 21: Extent of coastal region named *Terre Napoleon* by Baudin.

Lieutenant Colonel Paterson of casual comments by some French officers that it was the intention of the French to make a settlement, in what was then called by the British, Storm Bay Passage on south-eastern Van Diemen's Land.⁵⁵ When pressed for details of these conversations, Paterson advised King that this was common-place conversation of which he presumed King was aware.⁵⁶ King, who had not heard of such French comments, acted immediately.

In the same dispatch reporting the French conversations, King advised London he was dispatching naval acting lieutenant, Robbins, in an armed colonial vessel, to ensure 'His Majesty's Claim to that part of this Territory [Van Diemen's Land and adjacent islands] cannot be disputed'. Further, King stated that as soon as HMS *Porpoise* returned to Sydney, he would 'despatch her with a small Establishment to the most Eligible place at "Storm Bay Passage" and one at Port Phillip or King's Island'⁵⁷. The following year, in September 1803, the settlement at Risdon Cove on the River Derwent, under command of Lieutenant John Bowen, RN was established.⁵⁸ Meanwhile, to meet the immediate problem, Robbins, was instructed that if he met the French, he was to inform Baudin of Britain's claim to sovereignty by handing him a letter from King stating the British position.⁵⁹ This Robbins did, carrying out his duties forcefully, if somewhat crudely. He demonstrated sovereignty at King Island by placing an armed sentry and hoisting the British ensign (the French claimed this was raised upside down) over Baudin's camp.

⁵⁵ HRA, 1, 3, p.737. King to Hobart of 23 November 1802.

⁵⁶ HRA, 1, 3, p.740. That Paterson withheld giving this information until the French had sailed, appears strange. Possibly a sign of the disrupted working relationship between King and Paterson in the aftermath of accusations by Corps officers that the French had illegally sold spirits ashore; see above, footnote 52.

⁵⁷ HRA, 1, 3, p.737. King to Hobart of 23 November 1802. Also pp.738-739 for King's instructions to Robbins regarding a detailed study of the area.

⁵⁸ HRA, 3, 1, p.132. Log of *Lady Nelson* which arrived at Risdon Cove five days before *Albion* (p.197). *Porpoise* returned from Otaheite (Hawaii) in December 1802 (HRA, 1, 3, p.747), but needed a complete refit to her rigging before being ready for sea again (p.754). Also HRA, 1, 4, p.250 for report of May 1803 on poor condition of ship's hull. With adverse weather (p.359), this led to delays in establishing the settlement at Risdon Cove. Ultimately, *Lady Nelson* and *Albion* were employed to establish this outpost.

⁵⁹ HRNSW, 4, p.1007. King to Baudin of 23 November 1802. HRNSW, 5, pp.133-134, for King's detailed account to Banks of May 1803.

In reply to King's letter, Baudin responded with two, one formal, and the other personal to 'Mr. King, my friend, for whom I shall always have a peculiar regard'.⁶⁰ Baudin's formal reply pointed out that Robbins had arrived and hoisted the British flag 'too late, as ... we had left in prominent parts of the island ... proofs of the period at which we visited it.' In response to this, King made a marginal note on Baudin's letter, listing the 1798 British discovery of King Island and a survey conducted in February 1802. Baudin also denied Paterson's 'story' that French officials had spoken of the formation of a French settlement in Bass Strait or Van Diemen's Land, suggesting instead that Captain Kemp had been 'the author' of these rumours.⁶¹

In Baudin's personal letter to King, he denounced colonisation of lands peopled by indigenous natives, forcing their removal and loss of their heritage. He also referred to King's 'erroneous pretensions about Van Diemen's Land', and although Baudin was unaware of the French government's intentions regarding a settlement there, any French title 'will not be any better grounded than yours.'⁶² In respect to this comment on Britain's claim to sovereignty over Van Diemen's Land, Baudin's views can be supported. Cook took possession of the coast which he explored on the Australian mainland from 38 degrees south latitude - Point Hicks (Figure 22⁶³), near the south-eastern tip of the continent - thence northward to Cape York.⁶⁴ This claim was recognised under European conventions of discovery and did not clash with recognition of the Dutch discovery of Van Diemen's Land.

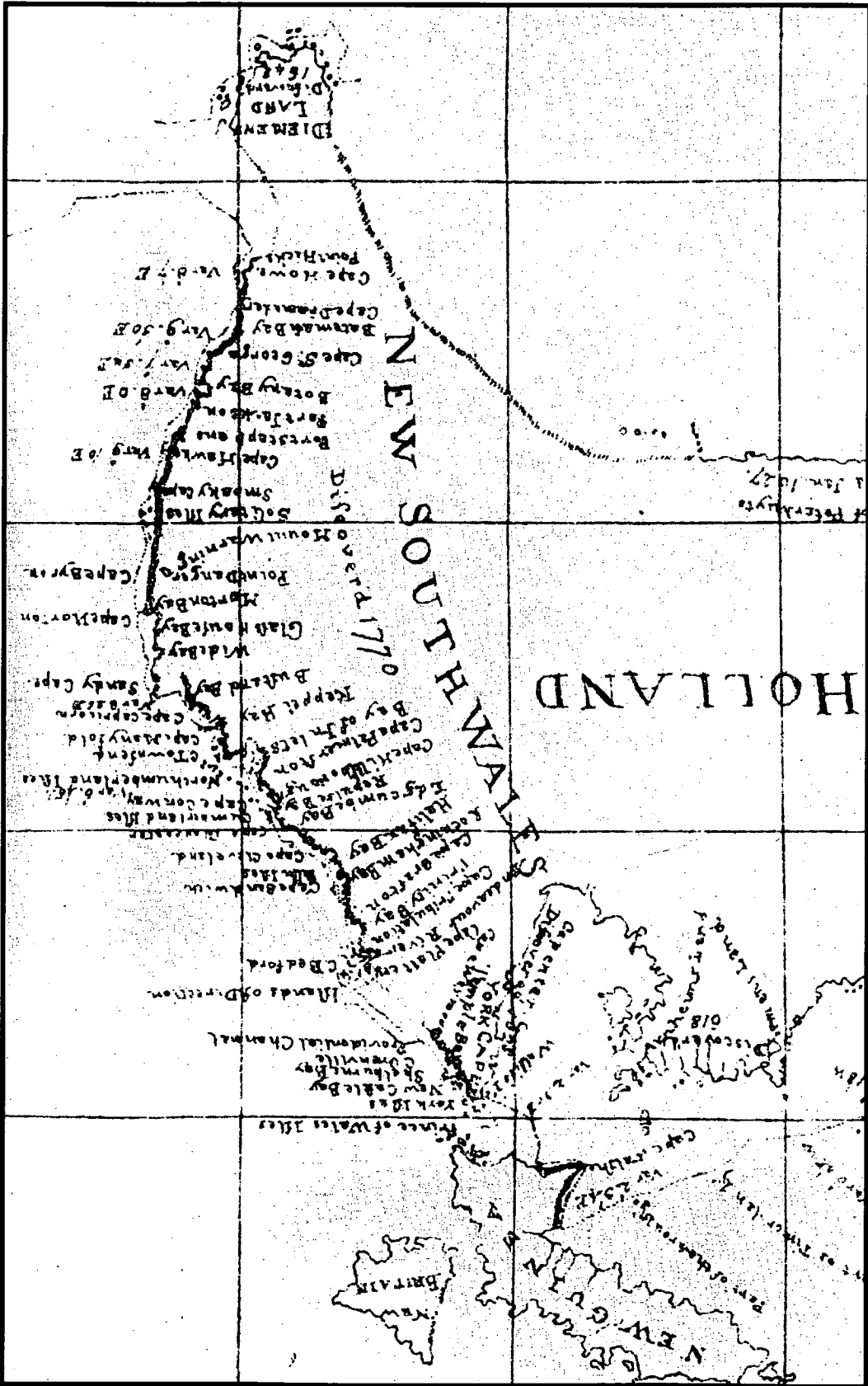
⁶⁰ HRNSW, 4, p.1009-1010, translation of Baudin's formal reply of 23 December 1802. For translation of the personal letter, of same date: RW Giblin, *The Early History of Tasmania, The Geographic Era 1642-1804*, London, 1928, pp.294-298.

⁶¹ HRNSW, 4, p.1009 and footnote quoting King's notation. Bragging by the French naturalist Peron is popularly considered as the source of the rumour reported by Paterson. Yet, in neither Paterson's, King's nor Baudin's letters on the French settlement claim, is any reference made to this person. H Rosenman, 'But for Cook?', pp.48-49, considers Peron's 'chatter and the suspicions he aroused' caused this incident.

⁶² RW Giblin, *Early History Tasmania*, p.295. In this letter, Baudin (p.296) referred to Robbins' 'childish ceremony' made more 'ridiculous ... from the manner in which the flag was placed'.

⁶³ A Sharp, *The Discovery of Australia*, Oxford, 1963, map facing p.98.

⁶⁴ HRA, 1, 12, p.838, Commentary Note 150. Thirty-eight degrees of latitude was the southern limit of Cook's claim.

[illegible]

Further, viewed from a European perspective, acceptance of Cook's claim avoided controversy over any possible French claims to parts of the island arising from detailed surveys by d'Entrecasteaux and subsequently Baudin. A century later, Scott devoted Chapter IX of his book on *Terre Napoleon* in arguing that King's fear of Baudin's involvement in the planning of a French settlement was groundless. Nevertheless, Scott considered the French could have made out stronger claims to sovereignty on moral grounds, due to their greater contribution than other Europeans to a knowledge of Tasmania.⁶⁵

Cook's claim assumed a land bridge, where in fact the still undiscovered Bass Strait lay, with Van Diemen's Land, claimed by the Dutch, to the south. In Phillip's commissions, New South Wales' 'southern extremity' was defined as 'South Cape in the latitude of forty-three degrees thirty-nine minutes south', being the southern most tip of Van Diemen's Land. Here lay the ambiguity in Britain's territorial rights, in the difference between Cook's claim by discovery, and the presumption of sovereignty in Phillip's and subsequent commissions. King may well have appreciated this legal weakness in Britain's territorial claim, which could explain his urgent measures to secure Britain's sovereignty by flag raising and settlement.

British sovereignty, initially demonstrated forcefully by Robbins, was reinforced the following year by the establishment (without prior approval from London) of a settlement at Risdon Cove in Van Diemen's Land under Lieutenant Bowen. Confidential orders from King to Bowen, made clear the motive for this establishment. King wrote:-

In case any French ships, or ships of any other nation, should attempt to form an establishment anywhere in the neighbourhood of where you are settled, you will inform the Commanding Officer of His Majesty's right to the whole of Van Diemen's Land ... If they persevere after this, you will endeavour to prevent them carrying their intention into effect, but without any act of hostility if it can be avoided; nor will you on any account suffer

⁶⁵ E Scott, *Terre Napoleon*, p.175 and pp.189-221 for Baudin's scientific accomplishments.

his Majesty's flag to be insulted.⁶⁶

The measure of King's determination to block the French was shown by his authorising Bowen to use force as a final option in securing British sovereignty. It is noteworthy that King did this on his own initiative, despite Baudin holding a British Admiralty Passport of safe conduct.

Preceding the above events, and before Robbins' hurried dispatch to King Island in November 1802, the previous May, King had recommended to London that a settlement be established at the newly discovered Port Phillip on the northern shore of Bass Strait. Writing of the natural advantages of that area, King also suggested two other reasons justifying such a settlement. One was an internal security factor and the other concerned external security. Firstly, he was concerned about the number of Irish convicted of sedition and republican practices being transported to the colony and considered that sending some to Port Phillip would do 'much for separation [of] the numbers'. King's other security problem concerned the possibility of the French making a settlement in the same area.⁶⁷

During the shaky Peace of Amiens, the War and Colonial Office favourably responded to King's recommendation. Hobart decided to settle Port Phillip, and with government approval, dispatched an expedition under Lieutenant Colonel David Collins for this purpose.⁶⁸ In Hobart's advice to King, of February 1803, that a new settlement was to be formed, 'subordinate to ... the Government of New South Wales', he noted:-

the sea abounds with the seal and the sea elephant, and the attempts that have already been made to fish there have been sufficiently successful to afford encouragement to prosecute that pursuit. It is also evident that the attention of other European powers has been drawn to that part of the world, and it need scarcely be observed that the establishment of any foreign power on that part of the coast might, in the

⁶⁶ *HRNSW*, 5, p.100. Confidential directive of 1 May 1803. The Peace of Amiens came into effect on 27 March 1803. But when King drafted this order he would not yet have been aware of this cessation of hostilities.

⁶⁷ *HRA*, 1, 3, pp.489-490. King to Duke of Portland of May 1802.

⁶⁸ *HRA*, 1, 4, p.653, Commentary Note No.1. By December 1802, planning was well advanced with Collins submitting a long list of stores required for use at the future settlement, *HRNSW*, 4, pp.921-924, Collins to Under Secretary Sullivan.

event of hostilities, greatly interrupt the communications with Port Jackson, and materially endanger the tranquility [sic] and security of our possessions there.⁶⁹

Meanwhile, Hobart was not aware that King had already decided to establish an outpost at Risdon Cove on the Derwent River, Van Diemen's Land.⁷⁰

With the deployment of Lieutenant-Governor Collins' expedition to Port Phillip,⁷¹ the problem of protecting the external security of Bass Strait became interwoven with internal security within Collins' inhospitable camp. He grew concerned about slackness, and the number of sick, in his marine detachment, also the number of convicts who took to the bush. To counter this, Collins "borrowed" from HMS *Calcutta*, a sergeant and ten marines to increase his security.⁷² This was only a short term expedient, and when advice was received that hostilities had again broken out with France, to Collins' dismay, *Calcutta's* captain and his ship, with a full complement of marines, speedily departed Port Phillip.⁷³ With discontent growing amongst the convicts and marine detachment, on 29 December 1803, Collins referred to the problem in discussion with the expedition's chaplain, Reverend Robert Knopwood. Knopwood noted in his diary, that Collins expressed the 'necessity that the civil establishment should form themselves into a patrol of a

night in case of an insurrection.' This 'night watch' commenced operating on 2

⁶⁹ HRA, 1, 4, pp.8-9. Hobart to King of February 1803. Also HRA, 3, 1, pp.1-4, for an undated London departmental memorandum, believed to be of late November/early December 1802; p.781, Commentary Note No.1, which provides more detail on the establishment of the Port Phillip settlement.

⁷⁰ HRA, 1, 3, p.737. King to Hobart of 23 November 1802. Hobart did not acknowledge this dispatch until June 1803.

⁷¹ In HMS *Calcutta* accompanied by the storeship *Ocean*. HRA, 3, 1, p.33. The civil officers, including Collins, numbered thirteen, with marine detachment consisting of three subalterns (enabling Collins to order a regimental court martial), three sergeants and corporals, two drummers and thirty-nine privates. Also, p.26, for 299 male convicts and sixteen married women, with the number of children unspecified.

⁷² HRA, 3, 1, p.781, Commentary Note 8. Hobart intended the detachment's strength to be one hundred and six all ranks, in fact only fifty-one, including Collins, embarked. *Records of the Port Phillip Expedition Volume I Correspondence October 1801-February 1803*, ed. J Currey, Melbourne, 1990, pp.33-34. First Lord of the Admiralty, St. Vincent, to Hobart of 28 December 1802. This explains the above limited number of marines, as St. Vincent had 'numberless objections' to providing this detachment.

⁷³ J. Currey, *David Collins A Colonial Life*, Melbourne, 2000, pp.206-209, for problems with convicts deserting. For Collins' concern over his marine detachment; p.212, for the marines "borrowed" from *Calcutta*, and the ship's sudden departure on 18 December 1803 (while Collins was planning removal of camp to the Derwent), p.212.

January 1804, with the 'gentlemen ... provided with a brace of pistols [and] ... other persons ... furnished with a short staff'.⁷⁴ Possibly the final events that precipitated Collins into activating the night watch were that a convict deserter shot at a soldier at the signal tent on 30 December 1803, and next day two marines were arrested and 'accus'd of mutany [sic]'.⁷⁵ They were court martialled and both sentenced to 900 lashes. Collins personally watched this punishment administered, which was only stopped when the doctor considered that the men's lives were at stake.⁷⁶

In addition to his misgivings over Port Phillip as a location for a settlement, Collins wrote to Governor King regarding the punishment of the two marines:-

on duly weighing the whole Circumstance, together with the weakness of my Party in point of Numbers, I thought I could not do better than repair to the Derwent, where, by being joined by a Detachment of the New South Wales Corps, a Spirit of Emulation would be excited and a check given to that discontent which has manifested itself amongst my own People. By this addition of strength I should, moreover, never have much apprehension from a large Sick-List, which indeed was once so great after the departure of the Calcutta Marines that I was obliged to reduce the number of my Centinels by day, mounting a Picquet in the Evening. [Also] ... if I should lose an Officer ... I could not hold a Court-Martial upon Offenders ... which would be obviated by the Services of Lieu't Moore [already stationed at Risdon Cove].⁷⁷

Collins' decision to use Bowen's military detachment to reinforce his own, because of an internal security problem at Port Phillip - unconnected with external concerns - resulted in an unplanned strengthening of the Derwent settlement, which itself had been founded for strategic reasons. This settlement, with its fine port of refuge,

⁷⁴ *The Diary of The Reverend Robert Knopwood 1803-1838*, ed. M Nicholls, Hobart, 1977, p.34. Entry for 29 December 1803. For night watch, pp.35-36. Amongst the 'other persons' of the watch were '6 soldiers mutiners [sic] from Giberalter [sic]' (p.37).

⁷⁵ *Diary of The Reverend Robert Knopwood*, pp.34 and 35.

⁷⁶ HRA, 3, 1, p.217, for marine discontent. One marine received 700, and the other 500 lashes.

⁷⁷ HRA, 3, 1, pp.217-218.

known and admired by the French,⁷⁸ strengthened the British grip on the approaches to Bass Strait and firmly secured Van Diemen's Land as a part of colonial New South Wales.

Meanwhile, Hobart's concern that the commercial and strategic importance of Bass Strait and adjacent coasts could attract other powers was well founded. In September 1802, a French vessel 'bound on a sealing voyage' to Bass Strait, was forced to put into Port Jackson for repairs,⁷⁹ and while King approved these repairs, and allowed the vessel to proceed as a special case, he warned the French captain:-

an exclusive privilege [sic] to some members of this colony [has been given] to seal on Cape Barren and the islands adjacent thereunto; and ... has [been] given [to] other English vessels and companies permission to seal on King's Island ... which will necessarily preclude your undertaking to catch seals on these places.⁸⁰

By November 1802, increasing international interest in Bass Strait fisheries resulted in King requesting London's advice, 'particularly respecting French and American vessels' sealing in the strait.⁸¹ Less than two years later, he was still asking London what was to be the official position regarding 'this intrusion and intercourse with the Americans, which is not only pernicious to the public interest, but highly disadvantageous to the adventuring colonists'.⁸² Some Americans, such as Delgano, became notorious for their aggressive operations around, and on the Bass Strait islands. They semi-permanently occupied some islands, built ships, and in that violent period of sealing history, brutally treated British sealers who intruded

⁷⁸ B Plomley and J Piard-Bernier, *The General, The visits of the expedition led by Bruny d'Entrecasteaux to Tasmanian waters in 1792 and 1793*, Launceston, 1993, p.209. In 1793, d'Entrecasteaux described the channel (now d'Entrecasteaux Channel) immediately south of the Derwent, between Bruny Island and the coast, with its many safe inlets, as follows 'I do not believe that there is, in the whole extent of the globe, so large a number of excellent anchorages united in so small a space'. He possibly had included the Derwent River in this assessment. Willaumez and Beautemps-Beaure, at this time, explored and charted (for chart, see p.260) the navigable stretches of the Derwent River. Willaumez recorded 'On all sides appeared ports, coves and creeks with every convenience for ships (p.212). Additionally, Baudin's expedition in 1802, conducted further surveys of the d'Entrecasteaux Channel and Derwent River.

⁷⁹ HRNSW, 4, p.837. French captain (Le Care) to Naval Officer at Port Jackson.

⁸⁰ HRNSW, 4, p.841. Naval Officer to French captain of September 1802.

⁸¹ HRNSW, 4, p.891. King to Hobart.

⁸² HRA, 1, 5, pp.7-8. King to Hobart of August 1804.

onto “their” domain.⁸³ Collins’ temporary camp at Port Philip, then its transfer to Hobart, and the establishment of a military settlement at Port Dalrymple, would have forestalled any possibility of disputation over sovereignty with France or the United States.⁸⁴ Port Dalrymple’s location on Bass Strait, was particularly well sited to frustrate foreign intentions, demonstrating Britain’s determination to uphold its sovereignty in that strategic area. But, irrespective of this, King continued with his resolve to prevent American sealers from setting up a base of operations on any of the strait’s islands.

While vessels from neutral America represented an annoyance to King’s administration, there was no claim by King that they presented a security threat. In comparison, before the Peace of Amiens, King appears to have exaggerated concern over First Consul, Napoleon Bonaparte’s intention to establish a settlement in Australia.⁸⁵ However, during the Peace of Amiens from March 1802, a French squadron of five ships, under command of Rear Admiral Durant Linois, was dispatched to the Indian Ocean. Had word of this French initiative reached King, he would have had grounds to be concerned, due to Britain’s naval weakness in both the Indian and Pacific Oceans. On the resumption of hostilities in May 1803, Britain in her struggle to maintain sea-power parity against the combined French and Spanish navies, had concentrated her warships in the Mediterranean and Atlantic. Therefore, until the British naval victory of Trafalgar, in October 1805, Linois’ squadron faced little opposition in the Indian and Pacific Oceans.

Additionally, this force was favoured by the Treaty of Amiens, as the Cape of Good

Hope had been returned to the Dutch and was unavailable to the British as a naval

⁸³ HRA, 1, 5, pp.173-176, Enclosure No.2. King to Hobart of December 1804. For Delgano incident and how the British (supposed) victim was told he ‘ought to have kept away from Cape Barren and the rest of those islands’ (p.174): p.813 Commentary Note No. 55, for a contradictory account of this incident, later published by Depano in 1817. He blamed the Britisher for initiating the violence. For report of ship building, p.7. Collins reported on a third vessel built by Americans in the last twelve months at ‘Kent’s Bay on Furneaux’s Island’.

⁸⁴ CH Grattan, *The United States and the Southwest Pacific*, Melbourne, 1961, p.81. Although unlikely, a claim of sovereignty (which would have been vigorously disputed) was a remote possibility. For example, Grattan notes that the captain of the American frigate *Essex* (see below Chapter 14, p.369-370, for capture of the British whaler *Seringapatam*) ‘formally proclaimed United States sovereignty’ over the Marquesas Islands in November 1813.

⁸⁵ By *coup d’état*, Napoleon became First Consul in November 1799. For example of King’s warning to London, before the Peace of Amiens, HRA, 1, 3, p.490, dispatch of May 1802.

base until recaptured in January 1806.⁸⁶ With Ile de France remaining a French colonial possession, Linois' squadron had the opportunity to wreak havoc on British trade routes in the Indian and Pacific Oceans. The lightly defended Sydney Town, could have been a tempting target for a resourceful naval commander.⁸⁷ In this eventuality, many convicts, especially the Irish, may have risen in revolt to support any French landing party.

Fortunately for the British, Linois was unenterprising and failed dismally in adopting aggressive and flexible naval tactics in a favourable operational environment.⁸⁸ The threat his ships posed diminished with the British recapture of the Cape in 1806 and ended when he surrendered with two warships to a British squadron in March 1806.⁸⁹ Thereafter, for the remaining period of the naval governors, and indeed up to 1815 in the Macquarie era, there was little likelihood of an attack on the colony. Nevertheless, there remained the possibility that privateers could interdict shipping destined for the colony.

Later, Napoleon issued a grandiose order in 1810, that a French naval squadron was to be dispatched to the Indian Ocean, and that it should 'take the English colony of Port Jackson'. This order revealed his failure to understand the realities of post-Trafalgar sea power.⁹⁰ Despite the breadth of his power in Europe, no French Indian Ocean squadron eventuated. The British capture of Ile de France and Reunion Island in December 1810, finally put an end to this Napoleonic dream. Possibly Napoleon was subject to unrealistic concern over British plans for the Pacific, in exactly the same way that Bathurst and King were worried over their

⁸⁶ A Frost, *Global Reach of Empire*, p.260.

⁸⁷ E Scott, *Terre Napoleon*, pp.15-20, for details of Linois' operations. His original squadron of five ships may not have been all warships as he was ferrying troops to reoccupy former French possessions in India, which had been captured by the British prior to the peace, and were to be returned to French control. On Hobart's instructions, the governor-general in India refused to honour this handover (p.25).

⁸⁸ E Scott, *Terre Napoleon*, pp.20-21, for generalised statement and pp.16-19 for an example of Linois' excessive caution, losing, through British bluff, an opportunity of achieving a noteworthy success with minimal risk.

⁸⁹ RE and TN Dupuy, *Military History From 3500 B.C.* p.838 for Linois' surrender.

⁹⁰ E Scott, *Terre Napoleon*, p.21 and footnote for primary source.

enemy's expected intentions to establish settlements in Australia. For example, on return of Baudin's expedition to Ile de France, E Scott wrote that naturalist Pierre-Francois Peron advised the Captain-General, General Decaen:-

The British Government, by extending their military posts and trading stations across the [Pacific] ocean would sooner or later establish themselves within striking distance of Chili and Peru. Peron pointed to the political insecurity of the Spanish-American colonies, and predicted that the outbreak of revolution in them, possibly with the connivance of the English, would further the deep designs of that absorbent and dominating nation.⁹¹

While Scott does not assert that Peron's report reached and influenced Napoleon, concerns about coexisting threats and counter threats were significant, and did influence colonial and international affairs, such as when Bathurst ordered Collins to settle Port Phillip .

Returning to the British assessment of French threats of settlement, it is argued that it would have been impossible for the French in wartime, to have established and then logistically supported an infant settlement, particularly in the strategic Bass Strait region. Intelligence gathered within France, and with surveillance by an increasing number of British ships transiting through the strait, London or colonial authorities would have been alerted to take counter measures. One British frigate, or several whalers, commissioned and fitted as privateers, based on Port Jackson, could have closely blockaded and fatally interdicted French shipping trying to establish, or support, any new settlement on the coasts or islands claimed by the British as a part of New South Wales. Yet, at the time, such a sanguine view was apparently not considered by King. His persistent warnings, and his precipitate action in dispatching Robbins, and later Bowen's expedition to the River Derwent, show that he had possibly over estimated France's capabilities. Notwithstanding King's apparent excessive concern over Baudin, London, presumably based on their own assessment of the situation, reacted by dispatching Collins to form a settlement at Port Phillip. This decision by the British government, is examined below.

A convergence of several factors apparently led to the government

⁹¹ E Scott, *Terre Napoleon*, pp.114-115.

dispatching Collins' expedition. By April 1800, London, now aware of the existence of Bass Strait, had ordered Lieutenant James Grant RN, outward bound in *Lady Nelson*, to survey this region. The Duke of Portland stressed that such a survey was of 'most immediate importance ... [because of] probable benefits of the whale fishery, and the shortening [of] the passage [to Port Jackson] through the straits'. He also drew attention to 'an excellent harbour, [which] is worthy of particular attention' in Van Diemen's Land.⁹² This information on the strait, and surrounding waters, had been passed to Portland by Lieutenant Matthew Flinders RN, who, after he and Bass had circumnavigated Van Diemen's Land in 1798-1799, returned to England on *HMS Reliance*.⁹³ Information on fisheries from Enderby & Sons, who were influential in the whaling industry, and acted as a successful pressure group on government, would have been considered. As Roe points out, they had close but informal links with King, who had assisted them when he was on Norfolk Island, in England, and as governor in Sydney.⁹⁴

Meanwhile, Portland probably had intelligence of the proposed Baudin expedition, adding urgency to his orders to Grant, which included directions to take possession of suitable 'shelter[s] for shipping' or locations with likely productive soil.⁹⁵ That Portland was aware of the French plans, is a reasonable assumption, for only two months after Grant received his orders, Baudin's British Admiralty Passport was approved.⁹⁶ Having appreciated the importance of Bass Strait, probably Portland, as well as Banks, followed the French moves with interest. Banks sponsored Flinders, and by January 1801, the latter had been appointed

⁹² HRA, 1, 2, p.498. Portland to King of April 1800, concerning discovery of strait and the 'lieutenant of the Reliance' (Flinders). Enclosure 1, p.499, Portland's directions to King for employment of Grant.

⁹³ HRA, 1, 2, p. 501. Portland to Grant of April 1800. Directing Grant to explore the strait on passage to Port Jackson.

⁹⁴ M Roe, 'Australia's Place in 'The Swing to the East', 1788-1810', *Historical Studies Australia and New Zealand*, Vol.8, No.30, May 1958, pp.202-204. Indeed, based on King's assistance in England, he had 'a one-third share in the first cargo' authorised to be carried by a whaler to Port Jackson.

⁹⁵ HRA, 1, 2, p.500.

⁹⁶ E Scott, *Terre Napoleon*, p.161. Approved, in June 1800, by Earl Spencer, then First Lord of the Admiralty (p.160). Baudin sailed from France in October 1800 (p.167).

captain of HMS *Investigator*, under orders to survey Australia's coastline.⁹⁷ Such concern over Baudin's expedition, which had earlier sailed, was emphasised in June 1801, in a letter from Flinders to Banks, in which Flinders expressed concern that 'the French are gaining time upon us'.⁹⁸

Meanwhile, in 1800, Collins had put himself forward as an 'Under Secretary of State for the Colonies', and in 1801, Portland wrote a testimonial to Hobart on Collins' behalf. Thereby, while promoting his interests in London, this probably commenced the process by which Collins was ultimately appointed to command the Port Phillip expedition.⁹⁹

A further factor which likely influenced the decision on the Port Phillip expedition was the unstable Peace of Amiens, of March 1802. AGL Shaw notes that 'during the peace the government had decided to reform the transportation system by sending to Sydney two shiploads of convicts every year in government [naval] ships.'¹⁰⁰ HMS *Glatton* and *Calcutta* were detailed for this task, with *Calcutta*, accompanied by a storeship, *Ocean*, later diverted to Port Phillip. This use of warships was opposed by the First Lord of the Admiralty, who wrote to Hobart, that if the scheme was 'carried to a greater extent, [this would] cut deep into the Sum granted for the Navy, the expense being very much heavier than when they [convicts] were conveyed by Contract'.¹⁰¹

During the Peace of Amiens, the British government was concerned by France's aggressive preparations for war. While Britain reduced the strength of her army and navy,¹⁰² France did the opposite. An example of this being Napoleon's

⁹⁷ HRNSW, 4, p.291. HRA, 1, 3, p.110, King was advised of this appointment in June 1801.

⁹⁸ HRNSW, 4, p.381. Second footnote to p.381, noted Baudin had gained nine months start. E Scott, *Terre Napoleon*, p.168, Flinders did not sail until July 1801.

⁹⁹ HRNSW, 4, pp.138-139. Collins to Under Secretary Sullivan of September 1800, and p.626, Portland to Hobart of November 1801.

¹⁰⁰ AGL Shaw, *A History of The Port Phillip District Victoria Before Separation*, Carlton, 1996, p.7.

¹⁰¹ *Records of the Port Phillip Expedition*, p.34. St. Vincent to Hobart of December 1802.

¹⁰² See above, Chapter 9, pp.218-219, for army economies attributed to precipitating the 1804 rebellion. H Richmond, *Statesmen and Sea Power*, p.214, for naval economies.

move to make Antwerp 'a spearhead levelled at the heart of England ... [and] the biggest naval base in the world'.¹⁰³ Hobart's concern over such developments is evident in his secret directive of 17 October 1802, ordering the governor-general of India, Lord Wellesley, to ignore the terms of the peace, and not return France's former possessions.¹⁰⁴ It was against this background that King's warning dispatches (referred to earlier) were received by Hobart and his staff. As these dispatches paralleled London's suspicions over France's world-wide ambitions, they obviously received close and favourable consideration.

The basis for the government's decision on the Port Phillip expedition is indicated by an unsigned memorandum, of late November or early December 1802.¹⁰⁵ This suggests that the final factor which led to the Port Phillip expedition, was receipt of a series of dispatches from King, particularly that of 29 March 1802.¹⁰⁶ The memorandum stated:-

The attention of the French Government has recently been directed to New Holland ...

By the accounts, ... from Govr. King ...there is reason to believe [quite correctly] that the French Navigators had not discovered ... *Port Phillip*, nor [incorrectly] ... King's Island ...

Governor King represents each of these objects as deserving the attention of Government, but especially Port Phillip, where he urgently recommends that an establishment should be immediately formed ...

The reasons, adduced by Governor King ... are principally ... the advantages which the possession of such a Port naturally suggests from the valuable fishery ... and from the policy of anticipating the French, to whom our discover[ies] ... must soon be known, and who may take early measures for establishing themselves in position so favourable for interrupting in any future war the communications between the United Kingdom and New South Wales ...¹⁰⁷

Here, the deciding factor for the Port Phillip expedition was the strategic importance of Bass Strait, supported by the desire to protect British fisheries in the region.

¹⁰³ G Callender, *The Naval Side of British History*, London, reprinted 1925, p.205.

¹⁰⁴ E Scott, *Terre Napoleon*, p.15.

¹⁰⁵ HRA, 3, 1, pp.1-3, for memorandum, and p.781, Commentary Note 1, for its approximate date. The memorandum was apparently a War and Colonies inter-departmental document.

¹⁰⁶ HRA, 1, 3, p.436-437. Dispatches of 1 March 1802 (recommendation for a settlement at either Port Dalrymple or Western Port). Dispatch of 29 March 1802, p.482, (discovery of Port Phillip, and p.795, Commentary Note 191, for details of its survey). Dispatch 21 May 1802, p.490, (as detailed in the above memorandum quotation). Later dispatches by King would have arrived in London too late to have influenced the decision on Collins' expedition.

¹⁰⁷ HRA, 3, 1, pp.1-2.

Once the decision on the Port Phillip expedition was made, planning advanced quickly. Collins wrote to Under Secretary Sullivan, on 24 December 1802, commenting on needs, and listing stores required for the future settlement.¹⁰⁸ Significantly, this level of detailed planning was being conducted even before the First Lord of the Admiralty, on 28 December 1802, favourably commented on the suitability of Collins, a marine officer officially under his command, for the position of lieutenant-governor.¹⁰⁹ During January 1803, royal assent was given for convicts 'now in this kingdom' to be transported to Port Phillip.¹¹⁰ The expedition sailed from Spithead on 24 April, and by 9 October 1803, *Calcutta* and *Ocean* had rendezvoused together in Port Phillip.¹¹¹

From this examination of the circumstances leading to the British government's decision to mount the Port Phillip expedition, it would appear that London was not "dragged" into this venture by King's agitations. Rather, a series of diverse factors, over two years, came together at the time King's dispatches were received in London. This led to approval being given for the expedition, and involved interwoven imperial and colonial external security factors, together with concern over British commercial fisheries interests.

The resumption of hostilities in Europe in 1803, led H Rosenman to comment that 'After the Baudin expedition and the ten turbulent years that followed, there was no further [French] government sponsored voyages to the Pacific until the Bourbon restoration'.¹¹² Following British supremacy at sea after the Battle of Trafalgar, any fear of a French seizure and occupation of a settlement site was no longer realistic. This factor, together with the formation of settlements in Van Diemen's Land, eliminated the possibility that the critical Bass Strait passage could

¹⁰⁸ HRNSW, 4, pp.921-924.

¹⁰⁹ *Records of the Port Phillip Expedition*, p.33. St. Vincent to Hobart.

¹¹⁰ HRNSW, 5, p.4. Hobart to Admiralty of 15 January 1803. This also authorised Collins to command the expedition, nominated vessels to be employed, and gave the king's approval for a force of '100 private marines, with a suitable number of officers and non-commissioned officers'.

¹¹¹ HRA, 3, 1, p.26. Collins to King of November 1803.

¹¹² H Rosenman, 'But for Cook?', p.49.

become dominated by the French. In this politico-strategic situation, the issue of a French threat was never again raised by the colonial naval governors. Nevertheless, as discussed in Chapter 14, Macquarie did express a concern over French intervention during his term as governor.

The other external security threat, the Spanish interception of British shipping, or maritime raids across the Pacific, was also put to rest when that country and Britain became allies following the French invasion of Spain in March 1808. By this time, because of perceived French threat, British settlement was firmly established in the region covering Bass Strait. Consequently, threats of war, rather than peaceful expansion, led to significant parts of the continent's eastern seaboard coming under British sovereignty.

Chapter 11

Insurrection Against Bligh, 1808

In August 1804, Governor King urged that his replacement in the colony be carefully selected as he 'will require abilities, [of] firmness, and decision to manage the people of which this colony is composed'.¹ Sir Joseph Banks, the acknowledged expert on New South Wales, was a patron of Captain William Bligh, whose name he put forward as King's replacement. Subsequently, Earl Camden² wrote 'empowering me [Banks] to offer the Government of N.S. Wales to Capt. Bligh'.³ Viscount Castlereagh later replied to Governor King's letter, that 'a proper person should be selected to relieve you ... the King has been pleased to appoint Captain Bligh, of the Royal Navy, as your successor'.⁴ The new governor certainly had the qualities recommended by Governor King, but he also had an 'extremely hot temper', and was subjected to much publicised criticism for his role as captain of *Bounty*, aboard which some crew members successfully mutinied in April 1788.⁵ In his appointment as governor, Bligh as a 'martinet ... [was] sent out to curb ... the

¹ *HRNSW*, 5, p.446. King to Under-Secretary King of August 1804.

² *HRNSW*, 5, p.465, footnote. Earl Camden succeeded Hobart at the War and Colonial Office in May 1804. Viscount Castlereagh took over from Camden in July 1805, p.654.

³ *HRNSW*, 5, p.590. Letter (addressee not recorded) of April 1805. *HRA*, 1, 6, p.VI, for Banks also acting as Bligh's patron in securing his earlier appointment to command HMS *Bounty*, tasked with collecting bread-fruit from Otaheite.

⁴ *HRNSW*, 5, p.655. Letter of July 1805. Banks to Bligh of September 1805, expressing concern that the colony was not to be 'under a naval government', but that Bligh was appointed 'as a civil Governor', p.692.

⁵ *ADB*, 1, p.119, for temper. *HRA*, 1, 6, pp.VII, IX-XI. Despite his mercurial nature, Bligh's naval achievements included: brilliantly navigating an open boat about 3600 miles to safety after the *Bounty* mutiny; receiving a Society of Arts gold medal for a later expedition which successfully collected bread-fruit from Otaheite; and, during the French Revolutionary Wars, serving with distinction as a ship's captain at the Battle of Camperdown, and at the action off Copenhagen after which he was personally thanked by Lord Nelson.

disturbing elements of the New South Wales Corps and its partisans,⁶ His selection could well have been considered by the government as a risky but necessary measure. Bligh assumed office as governor in August 1806, and his zeal in enforcing London's orders was bitterly resented by vested colonial interests. He was removed from office by an insurrection in January 1808. This rebellion was carried out by the New South Wales Corps, the unit responsible for maintaining order in the colony. As a result, from 26 January 1808, until Lieutenant Colonel Macquarie assumed the appointment of governor on 1 January 1810, the colony was ruled in the name of the civil power by the senior military officer, who at the time, commanded the garrison in Sydney.⁷

As foretold by Governor King, John Macarthur did 'one day sett [sic] this colony in a flame',⁸ with this prophesy becoming fact at Macarthur's criminal trial on 25 January 1808. Matters leading to this trial were complicated, involving; the importation of a still, the schooner *Parramatta*, and a controversial challenge to Judge-Advocate Atkins, which threw the judicial process into chaos, precipitating the rebellion. The first charge that led Macarthur to the criminal court related to his unlawful importation of a sixty gallon still to make spirituous liquor. This he illegally removed from the ship which had been ordered to take the still back to England. It was recovered from Macarthur's Sydney home.⁹ He compounded this offence at a public gathering on 24 October 1807, being charged with using language, intended to 'seditiously ... inflame ... people against the Governor and [his] Government'.¹⁰ The next charges involved the schooner *Parramatta*, of which Macarthur was part owner. After a convict escaped from the colony on *Parramatta*, in November 1807 Macarthur disputed the forfeiting of the bond entered into by ships' owners as a deterrent to such happenings. While this argument continued, the

⁶ HRA, 1, 6, p.XII.

⁷ These officers were: Major George Johnston from January to July 1808, Lieutenant Colonel Joseph Foveaux from July 1808 to January 1809, Lieutenant Colonel William Paterson from January to December 1809. HRNSW, 6, p.817, for War Office on 7 May 1808 promoted Paterson to colonel and Johnston to lieutenant colonel 'in the Army'.

⁸ See above, Chapter 8, p.203 and footnote 63.

⁹ HRA, 1, 6, p.292.

¹⁰ HRA, 1, 6, p.294.

matter was further complicated when Macarthur refused to pay or provision the crew of the now impounded *Parramatta*.¹¹ The crew then breached colonial regulations by coming ashore as a group.¹² As a result of this breach, the Chief Constable of Parramatta attempted twice to serve Macarthur with a warrant to appear before a bench of magistrates.¹³ In each instance, speaking to the constable, Macarthur used insulting language in reference to Bligh and his government. Consequently, Macarthur was again charged with seditious language in addition to the original charges relating to *Parramatta*'s crew. He finally appeared before the bench on 17 December 1807, and was placed on bail pending a hearing before the criminal court.¹⁴ It is significant that amongst the four magistrates, were two military officers, Major Johnston and Captain Abbott, both of whom became embroiled in the Corps' rebellion on 26 January 1808.¹⁵ As a prelude to his trial, Macarthur demanded payment from the judge advocate, Richard Atkins, of a controversial and long standing debt. Atkins failed to make any repayment in response.¹⁶

When Macarthur's trial opened on 25 January 1808, the assembled court consisted of Judge-Advocate Atkins and six New South Wales Corps officers, of whom the senior, and spokesman, was Captain AF Kemp. Atkins, having sworn-in the six officers, should himself have then been sworn-in by Kemp. However, Macarthur objected to Atkins being a member of the court owing to the latter's indebtedness and claimed doubts of receiving a fair trial.¹⁷ The officers, without legal precedent, accepted Macarthur's plea, and Kemp, refusing to swear-in Atkins, submitted a request to Bligh that another judge-advocate be assigned for the trial.

This was refused, and in increasingly acrimonious correspondence, the rapidly

¹¹ *HRA* 1, 6, p.345, for evidence by ship's master, John Glen. The convict's name was John Hoare. As at April 1808 (after the Corps' rebellion) this matter was still unresolved.

¹² *HRA*, 1, 6, pp. 307-308, for circumstances. Apparently, prior to this, no difficulties had been experienced when individual sailors came ashore.

¹³ *HRA*, 1, 6, pp. 312 and 314, for evidence by Atkins and Chief Constable F Oakes respectively.

¹⁴ *HRA*, 1, 6, p.315.

¹⁵ *HRA*, 1, 6, p.315, for names of magistrates, civilian magistrates being Atkins and John Palmer. Not listed is Robert Campbell, who stood aside after an objection by Macarthur.

¹⁶ *ADB*, 1, p.39, for Atkins being well known in the colony for not repaying his debts. *HRA*, 1, 6, p.423, for Bligh's comments on the promissory note in Atkins' name.

¹⁷ *HRA*, 1, 6, p.221, for initial proceedings and pp.225-227, for Macarthur's address to the court.

developing crisis which culminated in the rebellion can be traced.¹⁸

Preceding this incident, there had been a long-running background of discontent and friction between the Corps and Bligh's predecessors Hunter and King. This was exacerbated by some military and civil officers' relentless struggle to protect their trading "rights". Concerning King, the officers were supported by influential settlers, such as Captain Macarthur. Now a civilian, he accused the governor of favouring particular merchants,¹⁹ while Lieutenant Colonel Patterson thought there would be 'better times ... if Gov'r King was not so hasty and unguarded'.²⁰ Also Captain Colnett of HMS *Glatton* wrote a stinging criticism of virtually every aspect of King's administration.²¹ Such a barrage of complaints forced Hobart to replace King. In doing so, he referred King to 'the unfortunate differences ... between you and the military officers ... latterly extended to the commander of ... Glatton'. Therefore, Hobart had decided to replace King with a governor 'free from ... the spirit of party which has reached alarming heights, and which might ... be of material prejudice to His Majesty's service.'²²

While all these disagreements led to intrigue, they did not spark a rebellion. Similarly, after his arrival, Bligh's strict enforcement of mercantile regulations, lack of finesse in handling the military and settlers, together with his studied insults and intemperate crudity in speaking in front of soldiers,²³ was infuriating. Yet, these issues were not the decisive factors which ultimately caused the rebellion. The question probed in this chapter is what impelled an *entire* regiment to mutiny.

¹⁸ HRA, 1, 6, pp.221-225, for correspondence.

¹⁹ HRNSW, 5, p.465. Macarthur to Under Secretary Sullivan of September 1804. Written while Macarthur was in England, after returning under arrest, then resigning from the army.

²⁰ HRNSW, 5, p.141. Paterson to Banks of May 1803.

²¹ HRNSW, 5, pp.207-219. Colnett to Nepean, Secretary of the Admiralty of September 1803. Footnote, p.444, notes 'Colnett dined with William Pitt ... upon return of Glatton. What a character [reference] the irascible captain would give King!'

²² HRNSW, 5, p.273. Hobart to King of November 1803.

²³ HRNSW, 6, pp.587-589. Statements by Whittle, Minchin, Bramwell and Johns. For Johnston's complaint to the Commander-in-Chief's Military Secretary of October 1807, pp.652-654. The Commander-in-Chief drew Castlereagh's attention to this in June 1808, p.651.

Major George Johnston, the putative leader of the mutiny, in his first dispatch to London, almost three months after assuming the government of the colony, explained why he had arrested Bligh. He claimed the mutiny was unavoidable to 'prevent an insurrection of the inhabitants, ... secure [Bligh] ... from being massacred by the incensed multitude; or if the Governor had escaped ... and retained his authority, to see His Majesty's ... government [not] dishonour'd by cruelties and merciless executions.' This dispatch, actually written by Macarthur,²⁴ amplified these reasons with the accusation that Bligh 'acted upon a predetermined plan to subvert the laws ... terrify and influence the courts of justice, and bereave those persons ... obnoxious to him of their fortunes, their liberty, and their lives.' Further, 'Several inhabitants were dispossessed of their houses [or] ... threatened with the Governor's resentment if they presumed to build upon or alienate their own lands.'²⁵ Apart from problems associated with 'Several inhabitants' homes and lands, these accusations attributed the causes of the rebellion to short term matters. Reference was avoided to longer term economic factors, such as restrictions placed on officers' trading. Significantly, there was no reference to the New South Wales Corps, or its six officers 'charged with treasonable practices' being connected in any way with the Corps' mutiny. The whole emphasis centred on the 'very awful impression ... made upon the minds of the inhabitants' which caused Johnston 'to adopt decisive measures for the[ir] safety'.²⁶

Before considering the mutiny in detail, the accusations in Johnston's dispatch require evaluation to establish their accuracy. He first stated that action by the military was necessary 'to prevent an insurrection by the inhabitants'.²⁷ In justifying this statement, Johnston, when urgently called from his home to the

²⁴ *A Charge of Mutiny, The Court Martial of Lieutenant Colonel George Johnston for deposing Governor William Bligh in the Rebellion of 26 January 1808*, introduced by J Ritchie, Canberra, 1988, pp.207 and 211. Macarthur, in evidence, twice admitted to the court that he wrote Johnston's dispatch of 11 April 1808.

²⁵ *HRNSW*, 6, p.576.

²⁶ *HRNSW*, 6, p.578 for 'awful impression' and p.579 for 'treasonable practices' and 'decisive measures'.

²⁷ Presumably, Johnston is referring to the 'common people' of Sydney, whose social strata was beneath that of the 'gentlemen', referred to as the 'more respectable inhabitants' (*HRNSW*, 6, p.579).

barracks, claims to have observed; 'The common people were ... seen in various groups in every street murmuring and loudly complaining while others were watching the movements of [Bligh's legal advisers] ... to [and from] Government House'.

In 1811, at Johnston's court martial, at Chelsea Military Hospital, London, Macarthur supported the proposition that 'an insurrection would have broken out in the town if the Governor had not been put under arrest'.²⁸ Under questioning by the court, he modified this answer. Referring to six military officers (Captain Kemp, Lieutenants Brabyn, Moore, Laycock, Minchin (Adjutant) and Lawson) who, on 25 January 1808, had refused Bligh's directive to form a Criminal Court with Judge-Advocate Atkins to try him, Macarthur stated:-

I believe, that if he [Bligh] had not been put in arrest, the six officers would have been put in gaol, and the soldiers and inhabitants would have united together, and they would probably have committed some excesses upon the Governor's person ... [Bligh's arrest ensured] the preservation of the peace of the colony, and the desire of preventing bloodshed.²⁹

Johnston, in his evidence, confirmed that 'the arrest of the six officers, and dread of what measures might ensue, would occasion considerable uneasiness'.³⁰ Thus the claim in Johnston's dispatch to London that the Corps saved the colony from insurrection by the 'common people' was a fabrication. What the mutiny by the Corps did do, was to prevent Bligh taking action against the six officers. Therefore, the second point in Johnston's dispatch that the Corps arrested Bligh to 'secure [him] from being massacred by the incensed multitude' is incorrect.

Johnston's next point was that the *coup* prevented His Majesty's government from being 'dishonour'd by cruelties and merciless executions'. This serious allegation presumably arose from threatened disciplinary action against the six military officers who defied Bligh in refusing to accept Atkins as the judge-advocate for Macarthur's trial. Amongst other issues, they accepted Macarthur's plea that his

²⁸ *A Charge of Mutiny*, p.197.

²⁹ *A Charge of Mutiny*, p.197.

³⁰ *A Charge of Mutiny*, p.151.

actions were 'a piece of justice I owed to the community to protest'. Further, that 'judicial authority' (of the six officers not to accept Atkins) should not be overridden by 'His Excellency's own power [which] must be the executive'.³¹ Atkinson notes that Macarthur's views and advocacy were influenced by Jeremy Bentham's 1803 *Plea For Constitution* for New South Wales.³² This work included comment such as 'the subversion of English liberties having been the very object and final cause of the foundation of this English colony'. Also Bentham decried 'Exercising legislative power by the ... Governor [and] ... an habitual and *positive* [Bentham's emphasis] exercise of an illegal power of [his] legislation'.³³ From Macarthur's actions after the rebellion, when he was appointed Colonial Secretary by Johnston, his noble cries for the colonial inhabitants' 'safety of their *property*, their *liberty* and their *lives*', if influenced by Bentham, was rhetorical and had little relation to reality. Macarthur's plea, while it was accepted by the six officers on the court, predictably was scorned by Bligh who was legally correct in asserting that the officers' refusal to serve with Judge-Advocate Atkins, appointed by the Crown, was illegal. Without Atkins they were not a legally constituted court, and as a defendant, Macarthur's appeal against being judged by Atkins was invalid in law.³⁴

Indicating their acceptance of Macarthur's arguments, the six officers continued to defy Bligh throughout 25 January. On the afternoon of 26 January, Bligh wrote to each that 'you are charged with certain crimes, you are ... required to appear before me, at Government House, at nine o'clock, to-morrow [27 January

³¹ *HRNSW*, 6, p.423.

³² A Atkinson, 'Jeremy Bentham and the Rum Rebellion', *JRAHS*, Vol.64, Pt.1, June 1978, p.6, for argument that Bentham's political ideas influenced Macarthur 'through violence [to achieve] a better social order'. Such an opinion sits ill at ease with the petition of April 1808 to Lieutenant-Governor Paterson, at Port Dalrymple, which refers to Macarthur as 'a turbulent and troublesome Character ... we believe him to be the principal agitator and promoter of the present alarming and calamitous state of the Colony', *HRA*, 1, 6, pp.573-574.

³³ *HRA*, 4, 1, pp.883-900, quotations p.898.

³⁴ *HRNSW*, 6, pp.430-433. Judge-Advocate Atkins' *Memorial* to Bligh of 26 January. This contained the legal arguments accepted by Bligh in charging the officers 'with certain crimes'. A *Charge of Mutiny*, pp.36-37, for Judge-Advocate General Sutton, at Johnston's court martial, argued for the legality of Bligh's actions in remaining firm that no protest could be lodged or upheld against Atkins's presence as judge-advocate at Macarthur's trial.

1808]'.³⁵ Earlier on 25 January, when the officers first refused to accept Atkins as a member of the court, Bligh had sent a message to Johnston, at his Petersham home, requesting Johnston call on him. Johnston replied verbally, that as he was injured from a fall 'out of his chaise' he could neither write a reply, nor attend Bligh.³⁶ At the height of the crisis, after Bligh ordered the officers next morning to appear at Government House, he dispatched a second request to Johnston for 'your assistance'. In this letter, for the first time, the accusation of treason was applied to the six officers, and further, that Bligh intended to take legal proceedings against them.³⁷ This was a charge of utmost gravity which could carry a capital punishment.

When Johnston asserted in his dispatch that the insurrection had been to prevent the government being 'dishonour'd by cruelties and merciless executions', this, if it meant anything, implied what might have happened if legal action had been taken against his six officers. Additionally, in writing Johnston's dispatch, Macarthur considered that if Bligh was successful in assembling a criminal court, who were prepared to try him, he too would be a victim of Bligh's merciless 'cruelties'. Johnston explained this at his court martial:-

the lower class in New South Wales looked up to the few independent and respectable inhabitants, as their only protectors against violence, and the tyranny with which they were threatened. ... But when it became known that of this class of society seven individuals [the six officers and Macarthur] were at once to be imprisoned and sentenced to death or banishment, every hope seemed at once to vanish, and despair with all its attendant feelings seemed to take possession of every mind.³⁸

Bligh's alleged misuse of the legal system was the next issue raised by Johnston in justifying the insurrection. He alleged Bligh 'acted upon a predetermined plan to subvert the laws ... terrify and influence the courts of justice, and bereave those persons ... obnoxious to him of their fortunes, their liberty, and their lives.' Here Johnston was raising the issue of the former convict George

³⁵ HRNSW, 6, p.433.

³⁶ HRNSW, 6, p.615. Bligh to Viscount Castlereagh of April 1808, being Bligh's account of his arrest. This was smuggled out to London (for smuggling, second footnote p.607).

³⁷ HRNSW, 6, p.433.

³⁸ *A Charge of Mutiny*, p.148.

Crossley, a lawyer, who was transported for perjury and emancipated by Governor King.³⁹ Unfortunately for the legal system in the colony, neither the judge-advocate nor any free settlers were qualified lawyers. Therefore, in more complex questions of law, Crossley's skills proved useful. Judge-Advocate Atkins admitted in evidence 'I did apply to Gov. Bligh to allow me to consult him [Crossley] ... being ignorant at that time of the forms of law'.⁴⁰ But Crossley did not enjoy the confidence of the Corps, and in 1807, the military members of a criminal court, trying the Provost Marshall William Gore, had prevented Crossley, who had Bligh's approval, acting for Gore.⁴¹ Deputy Commissary Fitz in a letter to England stated 'The extraordinary methods Gov. B. took to extricate him [Gore] from this predicament has been the cause of great misunderstanding between the Commanding Officer [Johnston] and the Governor'.⁴² So it was not surprising that the military objected to Crossley advising both Atkins and Bligh on legal procedures arising from Macarthur's postponed trial on 25 January. But despite these objections, during the developing crisis, while the six officers maintained their defiance of Bligh, Crossley was constantly at Government House as legal adviser. For example, he drafted Atkins' memorial which led to Bligh warning the officers they would be charged with 'certain crimes'.⁴³ The word specifically used when Bligh wrote in vain, requesting Johnston's 'assistance' on the afternoon of 26 January was 'treason'.

The link between Crossley and the allegation that Bligh 'had a predetermined plan to subvert the laws' was explained in Johnston's first dispatch to London. He claimed Bligh 'suffered himself to be guided by a wretch like that man, Crossley, to persecute and oppress His Majesty's subjects'.⁴⁴ Even so, the allegation that Bligh

³⁹ *A Charge of Mutiny*, p.166. Atkins in evidence stated Crossley was emancipated so that he could be sued for debt.

⁴⁰ *A Charge of Mutiny*, p.165.

⁴¹ *A Charge of Mutiny*, p.218. For the parliamentary clause which was cited by the military officers to prevent Crossley practising in court (*Appendix, No. XL*, p.471). The counter view taken by Bligh was that as Crossley was now a free man, by emancipation, this clause did not apply.

⁴² *HRNSW*, 6, p.305. Fitz to Under-Secretary Chapman of October 1807.

⁴³ *HRNSW*, 6, p.445. Admitted by Atkins on 27 January, when he was interrogated under oath by magistrates appointed by Johnston.

⁴⁴ *HRNSW*, 6, p.581.

was perverting justice by heeding Crossley's advice was an inadequate claim on which to justify insurrection. As pointed out by HV Evatt, the exact opposite applied. He noted:-

the key places on the Criminal Court ... were occupied by the military officers. Through the adroit if unscrupulous handling both of the Criminal Court and the military Courts Martial, Macarthur, whilst an officer of the Corps, had succeeded in discrediting both Hunter and King. He had not lost his skilfulness in employing such instruments... the Courts were the true forum of the little colony. ... On one hand there was the legal dictatorship of the Governor as the sole legislative and executive authority ... this dictatorship was being exercised by Bligh in favour of the agriculturists and poor settlers ... On the other hand, the military officers had real control of the criminal judicature⁴⁵

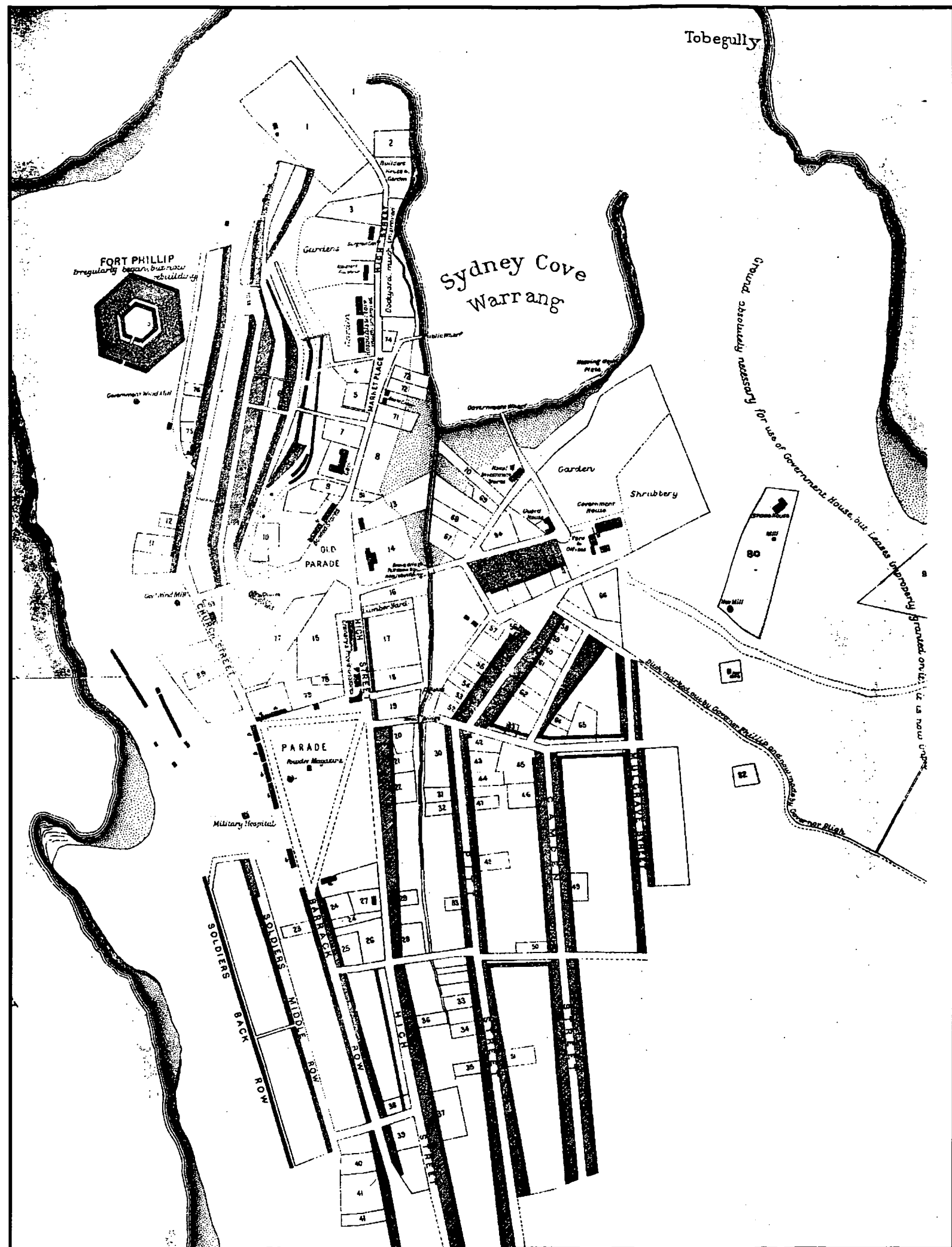
It was a hollow claim that Bligh planned to 'subvert the laws'.

The one specific allegation by Johnston against Bligh that 'several inhabitants were dispossessed of their houses [or] ... threatened with the Governor's resentment if they presumed to build upon or alienate their own lands' did have a basis of fact. In July 1807, Bligh published a *Government and General Order* giving three months notice for removal of private homes within an area originally marked out by Governor Phillip as a reserve (Figure 23, note 'Ditch marked out by Governor Phillip').⁴⁶ This involved the residences of seven named individuals 'and others, within the said limits' probably built with the approval of Governors Hunter and King, both of whom served under Phillip and supposedly would have been aware of Phillip's planned reservation. Bligh's tough approach is exemplified by his nominating for destruction the house of the former secretary to Governor King, David Mann (Figure 23, Lot 66). This was built immediately behind Government House, on a lease given to Mann by Governor King, so that he would be conveniently on call.⁴⁷

⁴⁵ HV Evatt, *Rum Rebellion A Study of the Overthrow of Governor Bligh by John Macarthur and the New South Wales Corps*, Sydney, 1939, pp.121-122.

⁴⁶ HRNSW, 6, for Figure 23 map facing p.366. From 'Plan of the Town Of Sydney' dated 31 October 1807. This area marked out by Phillip, now forms part of Sydney Domain. For Bligh's order, *A Charge of Mutiny*, pp.459-460. As compensation, Bligh did offer the dispossessed home owners the choice of other unoccupied town blocks.

⁴⁷ *A Charge of Mutiny*, p.366. Mann's evidence. In: D.D.Mann, *The Present Picture of New South Wales 1811*, Sydney, 1979, *passim*, he did not write on any aspect of the mutiny.



House Numbers

N°	To whom leased	N°	To whom leased	N°	To whom leased
1	Robert Campbell Esq	34	J ^o Solger	67	Sim Lord
2	J ^o Bairmain now	35	Cra ^t Wheilan	68	Tho ^s Randall
3	W ^o L. Government	36	Serj ^t - Ricketts	69	W ^o Chapman
4	M ^r White	37	John Fleming	70	Tho ^s Reibie
5	Cap ^t W ^o Raven	38	Geo Pitt	71	W ^o Blake
6	Sam ^l Thorely	39	John Fleming	72	Tho ^s Jameson
7	Henry Noble	40	Rich ^d Clarke	73	Isaac Nichols
8	May or Geo Johnston	41	Tho ^s M ^r Hobb y	74	Dan ^l M ^r Kay
9	Rich ^d O'Neirs	42	Cap ^t Nichols	75	Cra ^t Giffin
10	Tho ^s Prior	43	Jonas Bradley	76	Tho ^s Saunders
11	Cap ^t Waterhouse	44	Anne Robinson	77	J ^o M ^r Arthur
12	Geo ^s Laing	45	Will ^m Roberts	78	Rob ^t Sidaway
13	J ^o A. Linderwood	46	John Driver	79	John Morris
14	Grange to Orphans	47	Tho ^s D. Neale	80	John Palmer
15	Col ^l W ^o Russell	48	Rich ^d Reams	81	Nat ^l Lucas
16	Garrham Blarcell	49	J ^o A. Grant	82	W ^o Bennett
17	M ^r Tho ^s Laycock	50	Joseph Smith	83	W ^o Day
18	M ^r J ^o Harris	51	Cap ^t J ^o Houston	84	Edw ^d Suttrell
19	Rich ^d O'Neirs	52	Mary Newton	85	James Thomson
20	Rob ^t Turnbull	53	Neil ^m Kellar	86	James Wilshire
21	J ^o Black	54	Tho ^s Whittle	87	John Tucker
22	W ^o L. Government	55	J ^o Bloodsworth	88	Rich ^d Palmer
23	Edw ^d Eaven	56	John Gowen	89	Joseph Sherrard
24	Lieut ^{ant} W ^o Moore	57	Geo. Howe	90	Cap ^t Tho ^s Pringle
25	J ^o Blarcell	58	Serj ^t Richardson	91	John Redmond
26	Rich ^d Akins	59	J ^o Acker	92	Tho ^s Alford
27	Edw ^d Johnson	60	Cap ^t W ^o Wilkinson	93	Nat ^l Lucas
28	Cap ^t A. F. Kemp	61	Tho ^s Storer	94	Shad Shaw
29	W ^o Hudson	62	David Bevan	95	Nich ^s Divine
30	Rev ^d Johnson	63	James Petty	96	Nat ^l Franklin
31	Sam ^l Skinner	64	Dan ^l M ^r Colson	97	Fred Markett
32	Rosella Marsh	65	W ^o Bennett	98	Ja ^s Callam
33	Rob ^t Cummings	66	D. D. Mann	99	Alex ^s M ^r Donald

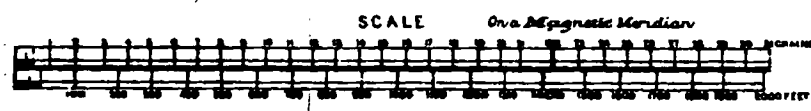


Figure 23: Plan of Sydney Town, 1807

Apart from the removal of these houses built in a restricted zone, a few other homes, for various reasons were subjected to Bligh's ire. He ordered unauthorised additions on a Chief Constable John Redmond's house (Lot 91) be removed because 'it would interfere with plans which I had formed for the improvement of the town'.⁴⁸ Also, there was a statement by Sergeant Major Thomas Whittle attached to Johnston's dispatch of April 1808, in which Whittle claimed that for no good reason, an enraged Bligh ordered that he 'remove the materials of the house' (Lot 54). To save his home, Whittle 'made my house and ground over to my Commanding Officer'.⁴⁹

But the most notorious argument over property rights involved a large undeveloped block on lease to Macarthur (Lot 77), which in Bligh's opinion was too close to the church.⁵⁰ It was the fate of this particular block which was behind the generalised accusation in Johnston's dispatch that land holders would be 'threatened with the Governor's resentment if they presumed to build upon or alienate their own lands'. From correspondence, it appears that Macarthur did have cause for grievance, as it was only on 13 January 1808, after the altercation with the government regarding a summons for his trial, that Bligh insisted this property be resumed.⁵¹ After refusing to accept what, in his opinion, were inferior alternative sites, Macarthur, in defiance, commenced fencing his block. Thereupon, the fence was dismantled by a convict gang. This dispute was still unresolved when the insurrection took place on 26 January.⁵² While Bligh showed little subtlety in the removal of these homes, with 'several inhabitants... [being] dispossessed of their houses', and particularly in his confrontations with Whittle and Macarthur, these acts did not justify the overthrow of the governor. Rather they were all part of the constant power struggle between Macarthur and many officers of the Corps against Bligh.

⁴⁸ *A Charge of Mutiny*, p.58. Bligh's evidence.

⁴⁹ *HRNSW*, 6, p.588.

⁵⁰ *A Charge of Mutiny*, pp.463-464, for lease granted by Governor King on 1 January 1806.

⁵¹ *HRNSW*, 6, pp.413-414 and 416-417, for correspondence.

⁵² *A Charge of Mutiny*, pp.180-185, for Macarthur's evidence.

The various accusations made in Johnston's dispatch to justify the insurrection, do not appear to present convincing reasons why Johnston, supported by his officers, risked their commissions, and possibly their lives, by rebelling. All the officers involved faced the likelihood of severe disciplinary punishments under the Army Act. Notwithstanding the tensions which existed in the colony before the mutiny, the imperative which finally impelled this drastic action, needs further analysis.

The role of Macarthur, as a major player in the insurrection drama, is considered first. The attempt to bring him to trial on 25 January, with Atkins in his legal role of judge-advocate, was the issue which led the six officers to defy Bligh. This defiance was the culmination of the ongoing struggle between successive governors, who, at London's directive, were attempting to stamp out trading abuses, and those officers who felt threatened by these reforms. These officers, military and civil, had been instrumental in forcing Hunter and King from office. They now felt threatened by the abrasive and inflexible Bligh and were ready to exploit issues with which they could confront him. Two months after the insurrection, Robert Campbell, a government supporter, expressed his view on their situation under Bligh, 'in General Grose's time ... the Officers [who traded] could live, cultivate their Farms, and make money, but [under Bligh] ... they could do nothing but barely exist.'⁵³ Macarthur's deliberate defiance and baiting of Bligh was the catalyst, but not necessarily the spark which caused the mutiny.⁵⁴

As considered in Chapter 8, Macarthur was a major player in events surrounding disputations with Hunter and King. As a former officer of the Corps, Macarthur retained links with the officers. He contrived to be popular with the other

⁵³ HRA, 1, 6, p.553. Campbell's report on spirit traffic of 31 March 1808.

⁵⁴ *Some Early Records of the Macarthurs of Camden*, ed. S Macarthur Onslow, Sydney, 1914, footnote p.147. A comment, purporting to have been made by Macarthur's son, James, was 'His [John Macarthur's] object was to drive the Governor [Bligh] into violent and precipitate measures'. As the editor of this book was a descendant of Macarthur's, this statement is unlikely to have been deliberately inserted to denigrate John Macarthur.

ranks and was prepared to buy this favour by generous distributions of eagerly sought spirits. For example in 1801, while under arrest at Parramatta, Macarthur supplied spirits as a 'present' to soldiers he formerly commanded at that town.⁵⁵ Again in January 1808 *before* the insurrection, he used Sergeant Major Whittle, the senior soldier in the Corps, as his agent in arranging a supply of cheap liquor for the other ranks and their families.⁵⁶ Gore was to record: 'On the nights of the 25, 26, and 27 January, liquor was liberally, and indeed profusely, served to the soldiers'.⁵⁷ Macarthur used his wealth and sharp intellect to dominate and manipulate people. His position of influence was reinforced by his links with the military. It was inevitable that there would be a clash of interests between Bligh, insisting on tighter government controls, and Macarthur, determined to retain his economic freedom of action.

Nevertheless, Macarthur's wealth and influence in the small colonial elite did not guarantee that the military would protect him against the processes of the law. On the contrary, in December 1807, Johnston, and his senior captain, Edward Abbott, were two of the four magistrates who found 'Mr. Macarthur stands committed for a Criminal Court', which he subsequently faced on 25 January 1808.⁵⁸ That being so, why did the six officers ordered to try Macarthur, defy Bligh in face of their temporary commanding officer's committal decision?⁵⁹ That Johnston led the *coup*, was a reversal of his own legal position as one of the Bench of Magistrates, who ordered Macarthur for trial. Additionally, Abbott's finding against Macarthur, also casts doubt on later accusations that he was part of a conspiracy which planned Bligh's downfall before the trial of 25 January 1808.

At Macarthur's trial, Captain Kemp was the senior of the six officers, and as

⁵⁵ See above, Chapter 8, p.202.

⁵⁶ *A Charge of Mutiny*, p.371. Admitted by Whittle under cross-examination.

⁵⁷ *HRNSW*, 6, p.560.

⁵⁸ *HRNSW*, 6, p.477. Proceedings of Bench of Magistrates of 17th December 1807. The other magistrates were Richard Atkins and John Palmer.

⁵⁹ At this time Paterson was lieutenant governor at Port Dalrymple, Van Diemen's Land, and Foveaux was on sick leave in England.

such, it was he who refused to swear Atkins in as judge-advocate. His stated reason for this refusal was that the court had listened to Macarthur's appeal and considered that 'the prisoner's protest[s] are good and lawful objections to Richard Atkins, Esq., sitting on his trial'.⁶⁰ What is not clear, and can not be established, is the motivation for Kemp's actions. Was he; defending the honour of a former officer; acting from conviction of justice due to Atkins's past disputations with Macarthur; using Macarthur's trial to attack Bligh or Crossley; or a combination of these and other motives? Presumably, Kemp acted with the foreknowledge of his five brother officers. The record of proceedings of 25 January does not indicate any division of opinion amongst the six officers in deciding that Macarthur could present his objection against Atkins, and then in agreeing the protest was 'good and lawful'. Lieutenant Minchin, a member of the court, later claimed the members 'were unanimous' in refusing to accept Atkins on the court.⁶¹ In his memorial to Bligh of 26 January, Atkins pointed to the mess dinner of 24 January, attended by all the officers in Sydney and partisans of Macarthur, including his son Edward, as an opportunity for the six officers to plot their tactics of obstruction.⁶² It was as he returned home from this mess dinner that Johnston was injured when his gig overturned.⁶³

With Johnston injured and home at Petersham, and Captain Abbott on duty at Parramatta, Kemp, as senior officer in Sydney, and also on the court, had sole responsibility for guiding the other five army officers in defiance of Bligh's demands. Doubtless Macarthur, prior to his arrest at 9am on 26 January, had exhorted the "court" of six officers to stand firm against Bligh, and also agitated amongst his contacts in the town, including the soldiers, to support his claim for the replacement of Atkins. But notwithstanding any involvement of Macarthur, it was

⁶⁰ HRNSW, 6, p.422. Proceeding of court on 25 January 1808. Kemp made the same claim in evidence at Johnston's court martial, *A Charge of Mutiny*, p.219.

⁶¹ *A Charge of Mutiny* p.240. Minchin's evidence.

⁶² HRNSW, 6, p.432, and footnote, regarding Edward, not his father John, attending. At Johnston's court martial, officers denied that there they had had conversations concerning Macarthur's trial next day.

⁶³ *A Charge of Mutiny*, p.149, for Johnston's accident.

Kemp (later described by Lieutenant-Governor Sorell as 'well known ... for turbulence and Malevolence ... [sparing] none in ... slander'⁶⁴) who must bear the responsibility for the exchange of correspondence initiated with Bligh at 11.25am on 25 January. By the afternoon of 26 January, this exchange had resulted in a stalemate, with the illegally constituted "court" recording they would bring Provost Marshal Gore 'to justice' for his 'false and ill founded' arrest of Macarthur. Bligh now had virtually no alternative but to charge the six officers. It was unthinkable that his authority could be publicly disputed by Kemp and five subalterns. Possibly Macarthur and many officers underestimated Bligh's determination not to buckle under to pressure, as in the past they had been successful in manipulating Governors Hunter and King; for example, in February 1803, where at Kemp's court martial, Johnston successfully forced King to replace Surgeon Harris as judge-advocate.⁶⁵ A tactic repeated, with far different results, at Macarthur's trial in January 1808.

Up to 4pm on 26 January, when the above events were unfolding, Johnston avoided being embroiled in the crisis. Nevertheless, in less than three hours, he had placed himself outside the law by leading an armed rebellion. This was a dramatic deviation for a man who had apparently followed the path of duty since he was first commissioned at the age of twelve.⁶⁶ Bligh said in his concluding remarks at Johnston's court martial that he was 'not anxious to fix upon Col. Johnston the charge of corruption, or lawless ambition'. But, he continued, 'what share he had in the formation of the plot I know not'.⁶⁷ Therefore even at the end of thirteen days' evidence and cross-examination, Johnston's degree of complicity in planning the rebellion, as opposed to well publicised details of what he said and did, remained unclear. Only supposition can offer a probable explanation of the motives which actuated Johnston.

⁶⁴ *HRA*, 3, 2, p.330. Sorell to Macquarie of June 1818. By this time Kemp was out of the army. Also in Hobart Town, a man (George Guest), in a property dispute with Kemp, 'complained much of the violence and intemperance of Mr. Kemp' (p.361, Sorell to Macquarie of November 1818).

⁶⁵ See above, Chapter 8, pp.204-205.

⁶⁶ *A Charge of Mutiny*, p.142. Johnston was almost 44 years old in 1808, being born in March, 1764, *ADB*, 2, p.20.

⁶⁷ *A Charge of Mutiny*, p.406. This statement by Bligh was read to the court by the judge-advocate.

To help understand Johnston's motives, it is necessary to examine his character as revealed by his earlier actions and what others said about him. While he conscientiously performed his duty in the public domain, he led a very private and peaceful domestic life. Johnston's professionalism as a soldier was evidenced by his actions as the commander who stamped out the Castle Hill rebellion in 1804. During this operation, he exhibited personal bravery in twice negotiating within the rebels' pistol range, quickness of decision in capturing the two rebel leaders (but see adverse comments below), and determination in pressing on hard with tired troops against a vastly superior number of rebels.⁶⁸

As well as performing his military duties professionally, Johnston was respected by his men. This was illustrated during Phillip's governorship, when the marines who volunteered to join the New South Wales Corps, would only do so 'on condition of their serving with the officer [Johnston] under whose command they had been left when the rest of the detachment was embarked for England'.⁶⁹ After the 1808 mutiny, in a letter published in which he criticised Johnston, the botanist, George Caley, also gave him credit:-

I always understood you to be a well-disposed, good-natured man - a cheerful companion, and an idol of the soldiers and the lower order of society⁷⁰

Nevertheless, Johnston had exhibited failings during his colonial service. In 1800, Governor King ordered him into arrest for illegally selling liquor and he was returned to England for disciplinary action, which for lack of colonial witnesses, was aborted.⁷¹ His professional conduct, under a truce, at Vinegar (Rouse) Hill, was of a dubious nature, as was his failure to prevent excessive killing of rebels after the main

⁶⁸ See above, Chapter 9, pp.235-236 and footnotes 105-106.

⁶⁹ See above, Chapter 5, p.104 and footnote 24. Quotation from *HRA*, 1, 1, p.392.

⁷⁰ *HRNSW*, 6, p.691. Open letter of 7 July 1808. Before and after this praise, Caley is scathing in his criticism of Johnston. For example, Johnston was 'void of prudence, and by his general behaviour I must reckon him only a bravado', p.693. Caley diligently collected botanical specimens on behalf of Banks, but was of an irascible nature as indicated in Bank's letter to him of August 1808 (*HRNSW*, 6, pp.704-705).

⁷¹ *HRA*, 1, 3, pp.269-272. Hobart to King of August 1801, and attachments.

action. Again, Johnston obviously lied at his court martial in 1811, which was inconsistent with his honour as an officer.⁷²

The evidence at Johnston's court martial indicated he and Macarthur were not close friends or trading partners. Johnston's principal witnesses for the defence, Macarthur, Kemp and Minchin all agreed on this point in their testimony. Typical was Kemp's comment that 'I do not know an officer who was in the habits of intimacy with him [Macarthur]; Col. Johnston was not so'.⁷³ Such a uniformity of evidence, especially by Kemp, who as senior officer and spokesman strongly promoted Macarthur's interests at the court hearing on 25 January, raises a suspicion as to its veracity. It was certainly in Johnston's interests to distance himself from Macarthur. Nevertheless, in primary sources covering the New South Wales Corps' service in the colony, there is no indication of Johnston and Macarthur cooperating in any clique. As already noted, Johnston was one of the four magistrates who, on 17 December 1807, committed Macarthur for trial, indicating he was prepared to impartially dispense justice irrespective of any past or present association with Macarthur. This judicial impartiality was confirmed by a prosecution witness at Johnston's court martial, merchant Robert Campbell, who had no cause to feel warmth for Johnston after the rebellion.⁷⁴ In evidence, Campbell agreed that 'Col. Johnston acted with perfect impartiality in Mr. M'Arthur's affair on the 16th and 17th December'.⁷⁵ Apparently, had Macarthur's trial gone ahead on 25 January 1808 with due legal process, Johnston would not have rebelled on 26 January.

⁷² *A Charge of Mutiny*, p.151. Lying for example, in evidence, that on 26th January 1808, he 'was driven to town by aid of my family' to cloak the fact that Minchin drove him to the barracks. Again, (p.154), Johnston stated that if Bligh had not hidden from the four officers sent to arrest him, Johnston could have organised 'a conference or arrangement with Gov. Bligh' - an outright lie as at that time Johnston was leading the Corps marching on Government House.

⁷³ *A Charge of Mutiny*, p.221. Macarthur said he was on 'merely distant terms of civility' with Johnston, p.197. For a similar comment by Minchin, p.245.

⁷⁴ *HRNSW*, 6, p.453. Government and General Order of 27 January 1808, cancelled the civil appointments of Bligh supporters, including Campbell as a magistrate and 'the office of treasurer to public funds, Naval Officer, and Collector of Taxes', all lucrative positions. As Naval Officer, Campbell was responsible for approving or delaying the inwards clearances of his rivals cargoes, a useful commercial advantage in a small market.

⁷⁵ *A Charge of Mutiny*, p.86.

Domestically, Johnston maintained a consistent relationship with a transported convict, Esther Abrahams, alias Julian. She bore him seven children before they married in 1814. It was a happy thirty-five year union, and together they developed their home "Annandale", into a substantial property.⁷⁶ Probably because of Esther's convict origins, Johnston is not mentioned in primary sources as being part of the social scene which revolved around Government House. In some ways this could have been to Johnston's advantage as he was less involved in the bickering as factions boycotted functions held there.⁷⁷ He guarded his privacy. In reply to the question 'Were his [Johnston's] habits of life very retired?', witness for the prosecution Campbell replied 'they were; he lived in the country, four miles ... from Sydney.'⁷⁸ There appears to be no evidence to indicate any particular social links between the Macarthur family and Johnston.

As there were no obvious links of obligation, which indebted Johnston to Macarthur, it is strange that Johnston's first act of insubordination against Bligh's government was to illegally order Macarthur's release from gaol on the afternoon of 26 January.⁷⁹ There is no record of the time of this release, and other associated events on the late afternoon of 26 January. But a reconstruction based on a few known times, aids an understanding of the rapidly developing power crisis.

The first key timing was that Minchin, as a member of the six officer "court" was in Sydney until they adjourned at 3pm on 26 January. Next, Harris visited Johnston at Petersham at 4pm, and according to Johnston's dispatch to London, Harris advised him 'an ... insurrection was to be feared'.⁸⁰ Bligh's mounted trooper arrived at Johnston's home shortly after. He delivered Bligh's second letter

⁷⁶ D Chapman, *1788 The People of the First Fleet*, North Ryde, 1981, pp.23-25, for Abrahams, who also had another daughter 'Roseanna' while in Newgate Gaol. This child was accepted as a part of Johnston's family. *ADB*, 2, p.21, for number of Johnston's children and 'thirty-five' years.

⁷⁷ See above, Chapter 8, *passim*.

⁷⁸ *A Charge of Mutiny*, p. 86.

⁷⁹ *HRNSW*, 6, p.433.

⁸⁰ *HRNSW*, 6, p.578. Johnston to Castlereagh of April 1808.

accusing six of Johnston's officers of treason, and that they were to be summoned 'before me, and all the magistrates'.⁸¹ This letter, in the wake of Harris's account of events in Sydney, would have confirmed Johnston's concern over the crisis. Also at an indeterminate time, possibly about 4pm, Adjutant Minchin reported to Johnston, presumably to advise him of the plight of the six officers including himself. As Minchin knew a grave charge (he could have guessed by then it would be treason) was pending against him, the intelligence he passed to Johnston could hardly have been unbiased. The suspicious ambiguity of the various statements as to whether Minchin even saw Johnston before he arrived in the barracks late in the afternoon, suggests that he did, and probably influenced Johnston's decision, playing a significant role in precipitating the rebellion. Atkinson also draws attention to 'the central role played by Lieutenant William Minchin, adjutant of the Corps, and Thomas Whittle, regimental sergeant-major'.⁸² A role which Minchin as the sanctimonious but ineffectual commander of the guard aboard *Lady Shore*, had played in 1797.⁸³ Abbott stated Minchin was sent to England with Johnston's dispatches, because 'many are of the same opinion ... [that Minchin is] obnoxious', while Macarthur wrote that 'Minchin [was] sent [Macarthur's emphasis] home with the Despatches [sic] not from any confidence placed in him'.⁸⁴

When Minchin first gave evidence at Johnston's court martial, he was led by questions from Johnston. In reply to a question as to where he was when Johnston 'was requested' to arrest Bligh, he replied 'At his barrack'.⁸⁵ There was no suggestion then, or in his answer to a following question, that Minchin was directly involved in any discussions prior to Bligh's arrest. Later, under cross-examination by the court, in reply to a question 'Did you go to Col. Johnston's house ... on the 26th of January?', Minchin replied:-

No ... I dined at Dr. Harris's house, which is about a mile from the town, and during dinner, or immediately after, Col. Johnston was driven there by

⁸¹ HRNSW, 6, p.433 for wording of Bligh's letter.

⁸² A Atkinson, 'William Bligh's Chickens', *The Push from the Bush*, No.25, October 1987, p.73.

⁸³ See above, Chapter 7, *passim*.

⁸⁴ MB Eldershaw, *The Life and Times of Captain John Piper*, Sydney, 1973, pp.80 and 81.

⁸⁵ *A Charge of Mutiny*, p.242.

one of his servants ... he asked me if I would drive him into town; I did drive him from Mr. Harris's house.⁸⁶

A strange dinner, as Minchin left the court when it adjourned at 3pm, and went to "dine" with his host, Harris, who almost simultaneously, was a further three miles out of town calling on Johnston.⁸⁷ The admission under cross-examination, that he had driven Johnston on the final mile from Harris's home into town, indicates he probably drove Johnston all the way. Ambiguous evidence by Chief Constable Francis Oakes does not clarify this assumption, he said he saw Johnston 'driven by Adj. Minchin from towards his [Johnston's] country seat to the military barracks'.⁸⁸ Quite incredibly, as Johnston or his counsel would have heard Oakes' evidence on the fourth sitting day, on the seventh day, Johnston told a blatant lie in sworn evidence that he 'was driven to town by aid of my family'.⁸⁹

Shortly after 4pm on 26 January 1808, Johnston also lied to Bligh, when he told Bligh's messenger to advise the governor that Johnston 'was so ill as to be unable to write, but that he *would get a person to write an answer in the evening* [Bligh's emphasis]'.⁹⁰ This deception implies Johnston had an intent to counter Bligh's "threat" to bring his six officers before the magistrates on 27 January, by methods other than negotiation. He could have been discussing this with Harris and Minchin when Bligh's messenger called.

As Johnston was still at his home shortly after 4pm, the earliest he could have reached the barracks would have been about 4.30pm. There he claimed he 'saw all the civil and military officers collected, and most responsible inhabitants',⁹¹ - a 'wretched assembly of four or five persons' as counter claimed by Bligh.⁹² This group must have discussed their planning options for a short period before Johnston

⁸⁶ *A Charge of Mutiny*, pp.267-268.

⁸⁷ *HRNSW*, 6, p.430 for court adjourning.

⁸⁸ *A Charge of Mutiny*, p.93.

⁸⁹ *A Charge of Mutiny*, p.151.

⁹⁰ *HRNSW*, 6, p.616. Bligh to Castlereagh of 30 April 1808.

⁹¹ *HRNSW*, 6, p.579. From Johnston's first dispatch to London.

⁹² *A Charge of Mutiny*, p.401. Apart from the military officers, Bligh, from evidence, listed the following civilians as being present; Blaxcell, Bayly, Lord and D'Arcy Wentworth.

took the irrevocable step to defy Bligh. With no legal claim, or excuse under law, Johnston assumed the title of lieutenant-governor.⁹³ This enabled him to order the release of Macarthur from gaol, after which a petition was drawn up requesting that Johnston arrest Bligh.⁹⁴ This happened at about 5.30pm or soon after as it was 'A little after six o'clock' that Provost Marshal Gore was informed of Macarthur's release and, with the jailer, went to inform Bligh.⁹⁵

By the time Gore had made his report and was departing from Government House, he saw Captain Kemp and Lieutenants Minchin, Lawson and Draffen approaching. Supported by the Main, or Governors Guard,⁹⁶ their task was to arrest Bligh. Gore was arrested as he was departing and was 'proceeding in the custody of the two soldiers ... when about thirty yards outside the gate [of Government House] I passed the battalion ... advancing ... with colours flying and drums beating ... Major Johnston was at their head'.⁹⁷ According to Minchin, the Corps under Johnston's command, arrived at Government House at 'about half-past six o'clock'.⁹⁸ For the Corps of some 300 soldiers to be paraded and formed up prior to marching to Government House, some 700 yards away, it would presuppose that the troops were called onto parade at about 6pm.⁹⁹ So from the above approximate timings, events unfolded as follows; between 4.30 and 5pm (or a little after), Johnston consulted at

⁹³ Paterson held the formal commission for this appointment. At the time of the rebellion he was stationed at Port Dalrymple, Van Diemen's Land, with the dual appointments of lieutenant-governor of New South Wales and of this new settlement. The senior military officer in the colony could only assume the office of lieutenant-governor in the absence of the governor and his deputy. For example, Paterson first assumed the office when Major Francis Grose, the commissioned lieutenant-governor, decided to return to England before Phillip's replacement, Hunter, arrived. Because Bligh was exercising his civil appointments within New South Wales, it was illegal for Johnston to act as lieutenant-governor. *HRNSW*, 6, footnote p.584, discounts the suggestion that Johnston would have been unaware that Paterson held a commission as lieutenant-governor of the colony, a point Johnston apparently used to remain "lieutenant-governor", by not pressing Paterson to return to Sydney Town and therefore resume his civic title.

⁹⁴ *HRNSW*, 6, p.579, for Johnston's account of events that afternoon, including Macarthur's release.

⁹⁵ *HRNSW*, 6, p.557.

⁹⁶ *A Charge of Mutiny*, p.273. The guard consisted of a subaltern and twenty-six other ranks including two sergeants.

⁹⁷ *HRNSW*, 6, pp.557-558 for Gore's account. Draffen elsewhere spelt 'Draffin'.

⁹⁸ *A Charge of Mutiny*, p.249.

⁹⁹ *A Charge of Mutiny*, p.272, for 'About 300 [soldiers] at head-quarters' in January 1808.

the barracks, assumed the title of lieutenant-governor and then had prepared and signed a release document for Macarthur.¹⁰⁰ From approximately 5.30 to 6pm, with Macarthur present, the proposal to arrest Bligh, was presumably discussed, a petition prepared for that arrest, a letter also prepared to be handed to Bligh by the four officers detailed to arrest him, and the troops called onto parade¹⁰¹ - a busy half hour.

It is difficult to determine whether these timings indicate that the arrest of Bligh resulted from either a plot hatched over some days - for example at the regimental dinner on 24 January, or from a sudden decision made sometime on 26 January. The possibility of the latter was posed by a question to Minchin at Johnston's court martial;

[Question] Then did you not say to him [Lieutenant Laycock, another of the six officers] 'If you are afraid, I am not; we will find a way to cool the Governor, by arresting him before he arrests us?'

This accusation was denied by Minchin, who disingenuously claimed he knew nothing of the proposed arrest 'until the very moment it took place.'¹⁰²

But, historical events do not occur in isolation. Bligh's arrest formed a continuum with the history of the Corps' opposition to the succession of naval governors after Phillip, and then particular issues and events involving Bligh, the officers, soldiers and Macarthur. These built up to a climate in which the major preoccupation of the military officers, and some civilians, was to destroy Bligh's credibility and have him, like King, recalled to England. Similarly, Bligh did not disguise his poor opinion of the Corps. This was evidenced by the pre-mutiny letter of complaint, of October 1807, which Johnston wrote to the Commander-in-Chief, quoting examples of Bligh's inappropriate behaviour.¹⁰³ Yet, there is a vast difference between an overt act of mutiny and covert conspiracy intended to cause Bligh's eventual downfall - or his humiliation, as would have been the case had Bligh backed down to Kemp's insistent demand that Judge-Advocate Atkins be replaced in the six

¹⁰⁰ *HRNSW*, 6, p.433. Johnston to 'Keeper of His Majesty's Gaol at Sydney'.

¹⁰¹ *HRNSW*, 6, p.434, for both the petition and letter of arrest to be handed to Bligh.

¹⁰² *A Charge of Mutiny*, pp.268-269.

¹⁰³ *HRNSW*, 6, pp.652-655.

officers' "court".

Prior to the opening of Macarthur's trial on 25 January 1808, there had been loose talk against Bligh, including how he could be brought down and replaced,¹⁰⁴ but apart from one comment in a letter by Captain Abbott,¹⁰⁵ there is no evidence of discussion amongst the officers that the Corps should resort to mutiny. Such a concept, to the military of any time, is only considered as a last resort. However, in Atkinson's 'William Bligh's Chickens', pretrial statements from three other rank potential witnesses for the prosecution for Johnston's court martial, could be construed as indicating the mutiny was preplanned. Officer of the guard, Lieutenant Bell on the afternoon of 26th January, told guard ex-Sergeant Hall 'he would see something the matter with the Governor before night'. Likewise, Sergeant Able stated in note 1; that he 'kept watch over McArthers [sic] House on the 25th day of Jany' and in note 2; 'Knew of the Conspiracy and Escape of McArther.' Again, ex-Sergeant Champion reported in note 1; that on 26 January, he 'saw Abbots [sic] ... at Parramatta ... with several of Mcarthers [sic] Family, and heard Abbot say he would drink another Glass of Wine to its success'. In note 2, Champion said he 'Was ordered to post some out Picquets that night and where'.¹⁰⁶ As commander of the detachment at Parramatta, Abbott published the following proclamation;-

Major Johnston having arrested His Excellency Governor Bligh and having taken upon himself the charge of the Government, no orders are to be obeyed,

¹⁰⁴ *HRNSW*, 6, p.344. Surgeon Harris to Mrs King, in England, of October 1807, wrote 'Caligula himself never reigned with more despotic sway than he [Bligh] does'. From two letters she wrote, Mrs Bligh, in England, was conscious of moves against her husband; pp.461-462. In the letter published on p.462 she refers to prejudicial naval influences at work in Portsmouth and London. A Atkinson, *The British Whigs and the Rum Rebellion*, *JRAHS*, Vol. 66, Pt.2, September 1980, pp.74-76 gives details of anti-Bligh sentiment in the navy prior to the January 1808 insurrection.

¹⁰⁵ *HRNSW*, 6, pp.831-832. Abbott to ex-Governor King of 13 February 1808. He wrote '(some days before it had been resolved to arrest him [Bligh]) on the 27th'. This statement can not be reconciled with all others made after the mutiny, on which this writer bases his argument. It remains a matter of opinion whether weight should be given to Abbott's statement. Whilst stationed at Parramatta, Abbott would be aware of the strained situation in Sydney Town during late January 1808. It is speculated that he may have been involved in loose talk of a wishful nature, such as generated by the mess dinner on 24 January. Alternatively, he could have been involved in discussions as to what may happen if Macarthur was convicted at his trial. Abbott does not appear to have been involved in serious plotting for a prearranged *coup*.

¹⁰⁶ A Atkinson, 'William Bligh's Chickens', pp.77, 85 and 88 respectively.

unless they come from him
 By order of Major Johnston (signed by Abbott)
 Martial Law is proclaimed.¹⁰⁷

From this it would appear that Abbott, as the next senior officer in Sydney after Johnston, had no compunction in immediately and openly supporting the rebel cause. But this does not indicate whether or not there was a plot which existed before or at the time of the mess dinner on 24 January 1808 and whether Abbott was privy to it..

Regarding the question of whether artillery pieces played any part in the insurrection, several statements make it clear that guns at the barracks were loaded and trained on Government House *after* the decision to mutiny was taken. But Private Gillard's sworn evidence in court, replying to a question regarding 'the guns before the Government House?', was that 'the elevating screws were taken off, and the guns pointed to Government House, a few days before [the mutiny] ... by the order of Mr. Minchin'.¹⁰⁸ A statement that apparently proved beyond doubt, the mutiny was preplanned. As these statements were taken in 1811, they must be treated with some reserve as they concern events which had occurred three years before. Lapses in memory due to this time delay, and probable tampering with witnesses, are evident in differences between individuals' pretrial statements and evidence they later gave on oath. This is illustrated by both ex-Sergeant Hall's and Private Davis' comments on whether orders were given to the guard to load their muskets.¹⁰⁹ Davis changed his evidence on this point between his pretrial and court martial statements.

Lieutenant Bell's reported comment to ex-Sergeant Hall could represent the Corps' officers view as the climax neared its inevitable finale, but this hardly indicated a long term plan to mutiny. The 'Conspiracy and Escape' in Able's memory could well relate to the events of 25 January, especially Macarthur's attack

¹⁰⁷ *Banks Papers*, Mitchell Library (ML), reel FM4-1753, A85, page number obscured or missing.

¹⁰⁸ A Atkinson, 'William Bligh's Chickens' p.87.

¹⁰⁹ A Atkinson, 'William Bligh's Chickens' pp.77 and 93 respectively.

on Atkins and possible stratagems planned to release Macarthur on 26 January, of which Able may have been aware. As it was on 26 January that Sergeant Champion heard Abbott expressing his hopes for 'success' to a member of the Macarthur family, he was probably then referred to the events of 25 January and hoping for success for the now imprisoned John Macarthur, in his determination to stand up to, and humiliate Bligh. Against that supposition, Abbott's orders to Champion for positioning specifically located picquets on the night of 26 January, would appear to confirm that Abbott was making preparations as part of a planned conspiracy to mutiny. This gives added authenticity to his letter that 'some days before it had been resolved to arrest' Bligh. However, it is equally likely that late in the afternoon, Abbott received a warning from Sydney that mutiny had been decided upon, which caused him to issue special orders to Champion about that night's picquets.

Regarding the two guns at Government House, which Bligh asserted in evidence at Johnston's court martial, 'the screws were taken out of the breeches ... and taken away without ... [Bligh's] knowledge'; the following extract from the cross examination of Bligh at Johnston's court martial is considered pertinent:-

Was not one of those guns ... a small brass ship six -pounder, which never had an elevating screw; and did not Lieut. Minchin remove the screw of the other gun in your presence, three months before, in consequence of some defects in the working of the gun? - I really cannot recollect that; but when I arrived all the guns were in extreme disorder, and I desired Lieut. Minchin ... to get one pair put in repair'.¹¹⁰

It is apparent from this evidence that Bligh was using the alleged prior removal of the guns' screws to prove that the mutiny was the result of a preplanned plot. But, by his own admission, conspiratorial removal of these was highly unlikely.

A statement by Private Colonan, a sentry at the barracks on the 26 January, refutes the conspiracy theory. He claims he heard a member of the "court", Lieutenant Laycock, expressing concern that arresting Bligh 'was mutiny and thought it better to go and hear what he wanted' on the morning of 27 January. To which Minchin replied 'be damnd if [he] would not go to Major Johnston and have

¹¹⁰ *A Charge of Mutiny*, p.72.

him [Bligh] arrested first, which was applauded by the rest particularly Lawson'.¹¹¹

From a consideration of the primary sources, the evidence suggests that the mutiny was not planned some days before. Nevertheless, the catalyst for the mutiny was clearly the consequence of the six officers accepting Macarthur's plea against Atkins, and their subsequent refusal to bend to Bligh's instructions to accept Atkins as judge-advocate. This piece of deliberate mischief intended to embarrass Bligh, could well have been planned at the mess dinner on 24 January or earlier. But while this catalyst set the scene, it is unlikely the instigators intended to precipitate a mutiny.

Had Johnston not been injured, or had he been inclined to respond to the governor's first letter of 5.30pm, 25 January, to 'see him [Bligh] without delay', some compromise in the deepening crisis may have been reached.¹¹² It is noteworthy from the correspondence, that up to this time, Bligh was still attempting to negotiate an end to the defiance from the six officer "court". Next morning, with Macarthur arrested, and the first letters that day by the six officers to Bligh, adopting a more defiant tone, the hope of compromise was gone, and Bligh chose not to reply to their letters.¹¹³ Instead, Atkins and Crossley commenced work on a *Memorial* concerning the six officers. This concluded by stating that the named officers' actions 'amount to a usurpation of His Majesty's Government, and tend to incite or create rebellion or other outrageous treason in the people of this territory'.¹¹⁴ The crisis was coming to a head with this legal advice that the six had committed a capital crime. It only remained for this accusation to be aired outside Government House for the subsequent explosive situation to develop.

Sometime about mid-afternoon on the 26 January, Bligh circularised the six officers:-

you are charged with certain crimes, you are therefore hereby required to

¹¹¹ A Atkinson, 'William Bligh's Chickens', p.80.

¹¹² HRNSW, 6, p.427, for letter and marginal note added by Bligh, after receiving Johnston's verbal refusal.

¹¹³ HRNSW, 6, pp.428-429.

¹¹⁴ HRNSW, 6, pp.430-433.

appear before me, at Government House, at nine o'clock to-morrow morning, to answer in the premises.¹¹⁵

In other words they were not called to discuss the matter with Bligh, but were to face a board of magistrates to answer civil, not military charges, yet to be specified.¹¹⁶

This utilisation of civil magistrates by Bligh, was a continuation of Hunter and King's concept, that the appointment of civilians to the bench, would, as described by Hunter, help break the power of the military 'over civil concerns in the colony.'¹¹⁷

For Bligh, this would have avoided the farce of the remaining Corps officers being insufficient to form a general court martial on the six officers,¹¹⁸ who would have been aware that one of the charges against them could be treason.¹¹⁹ Knowledge of such a charge spreading amongst the soldiers, whose loyalty would be towards their officers rather than to an abusive Royal Navy governor, would have created turmoil. Macarthur's popularity with the soldiers propped up by his sale to them of cheap liquor, was no doubt a factor in their support for Macarthur against Bligh. Probably, this was the situation as explained to Johnston by Surgeon Harris at Johnston's home at 4pm on 26 January 1808. Then, as already noted, Johnston claimed Harris advised him 'that an insurrection of the inhabitants was to be feared'.¹²⁰

From evidence, it was not an insurrection of the civilian inhabitants that was imminent, but rather the six officers and Macarthur's clique were inflaming the other four officers stationed at Sydney, and the troops, to take drastic and direct action - mutiny. For example, Captain Abbott, writing in February 1808 to ex-Governor King, supported this view, claiming 'Had the Governor not been put under an arrest

¹¹⁵ *HRNSW*, 6, p.433.

¹¹⁶ *HRNSW*, 6, pp.428 and 429. Civil magistrates present at Government House were 'Rich'd Atkins Thos. Arndell Robt. Campbell [and] Jno. Palmer'.

¹¹⁷ See above, Chapter 8, pp.190-191 and footnote 15.

¹¹⁸ Thirteen officers being required.

¹¹⁹ If criminal charges of treason had been preferred on 27 January, presumably with the criminal court made up of officers, and with their lack of impartiality and numbers, Bligh would probably have referred the case to London. Meanwhile the six officers would have had to have been placed in some form of arrest.

¹²⁰ *HRNSW*, 6, p.578.

there would have been a mutiny'.¹²¹ Again, at Johnston's court martial, the following exchange took place:-

[Question to Atkins, examined as a defence witness] If six out of the ten officers had been arrested and sent to prison at that time, do you think that would have induced the soldiers to join in an insurrection? [Answer] - I do think that under those circumstances they would.¹²²

A civilian witness, George Suttor, a Bligh supporter, made clear civilians were not involved :-

[Question] Would there have been any danger of tumult or insurrection, at the end of January 1808, if the military had remained firm to the Governor? [Answer] -None, I apprehend; I never saw the colony more tranquil.¹²³

These comments support Surgeon Harris' advice to Johnston that grave military (not civil) disturbances would rapidly develop if Bligh took disciplinary action against the six officers. Johnston thus faced a dilemma; was he prepared to accept the possibility of six of his officers being gaoled, and all the ramifications that could flow from that situation, or should he oppose Bligh, and if so how?

Shortly after Harris, and probably Minchin, arrived at Petersham, Bligh's dragoon arrived with another letter. This included the ominous statement that:-

the Judge-Advocate having laid a memorial before me against six of your officers for practices which he conceives treasonable, I am under the necessity of summoning them before me, and all the magistrates have directions to attend at nine o'clock to-morrow morning.¹²⁴

This confirmed all the fears expressed by Harris. Because of Johnston's intransigence in refusing to go to Government House (he had not spoken to Bligh since the start of the crisis), he would not have known what disciplinary options Bligh may have considered against the six officers. Fearing the worst, Johnston may have believed, possibly correctly, that his six officers would be gaoled on the 27 January.

¹²¹ *HRNSW*, 6, p.834. Abbott mentions 'Irish Croppies [convicts]' whose employment by Gore 'highly incensed' the soldiers. From Phillip's government onwards, little love was lost between the soldiers and constables.

¹²² *A Charge of Mutiny*, p.175. For a similar type statement by Minchin, pp.241-242.

¹²³ *A Charge of Mutiny*, p.119.

¹²⁴ *HRNSW*, 6, p.433.

Conceivably this was the moment of decision for Johnston. He was faced with the prospect of elements of his unit breaking out into open defiance of Bligh, and a possibility of a small pro-Bligh clique causing dissension within the Corps.¹²⁵ Should he wish, Bligh had the option of ordering the crew of HMS *Porpoise* to be landed to help preserve the King's peace, using an internal security situation to justify his actions.¹²⁶ Alternatively, if Bligh was forced to flee, both the military and Bligh knew that outside Sydney Town there was support for the governor particularly amongst the Hawkesbury settlers.¹²⁷ Less than a year previously, in February 1807, a testimonial to Bligh, signed by the impressive number of 546 settlers in that area, stated:-

under a just, equitable, and gracious Government [by Bligh], which we, impress with the strongest desire to support with our Lives, as [is] also a bounden duty in all loyal Subjects, have willingly, accorded to Your Excellency's Order, enrolled our names for the Defence of the Country, in which we will readily participate at all times of need¹²⁸

This willingness by many settlers to participate in a prospective Loyal Association militia within the Hawkesbury region, and to be prepared to take up arms to defend their homes and values against rebellious elements, (admittedly seen at the time as being 'those disaffected [Irish] People') was a sentiment upon which the locally popular Bligh would certainly have attempted to capitalise. Whilst an article by BH Fletcher casts doubt on the degree of support Bligh may, or may not, have had from settlers in the Hawkesbury, he nevertheless concludes the work by stating 'a balance of probability ... seems weighted in favour ... that there was strong support for Bligh at the Hawkesbury.'¹²⁹ Therefore, the Corps was presented with the prospect of a civil disturbance, even an armed clash, if Bligh escaped into that area - an unwelcome prospect. Some Hawkesbury settlers' views after the *coup* were definitely pro-Bligh,

¹²⁵ A Atkinson, 'William Bligh's Chickens', *passim*. Statements by twelve other ranks (excluding Able's somewhat neutral statement), expressed disapproval of Bligh's arrest at the time of the mutiny or later.

¹²⁶ *HRNSW*, 6, pp.818-819. *Porpoise* entered Port Jackson at some time prior to 14 January 1808 and, apart from voyages to Norfolk Island and Van Diemen's Land, remained based in Sydney.

¹²⁷ *HRA*, 1, 6, pp.577-579. Two testimonials to Bligh by Hawkesbury settlers of January and February 1807. They appreciated Bligh's concern at the time of the 1806 Hawkesbury flood and his later efforts to oppose the monopolists.

¹²⁸ *HRA*, 1, 6, p.578.

¹²⁹ BH Fletcher, 'The Hawkesbury Settlers and the Rum Rebellion', *JRAHS*, Vol.54, Pt.3, September 1968, p.234.

as evidenced by their address of strong protest, sent to Paterson at Port Dalrymple, in May 1808.¹³⁰

Limited mutiny short of deposing Bligh, military riots, or other exhibitions of insubordination by part of the Corps would not have caused a change of heart within Bligh's government, nor have toppled it. In such circumstances, should Bligh have taken action against discontented military elements, his known aversion to soldiers would have inflamed the situation and provided an opportunity for dissatisfied convict groups, such as the Irish, to rise. Such strands of thought were conceivably in Johnston's mind, when at his court martial, he described his immediate impression when the Corps arrived at Government House:-

I learnt [from the officer he had sent ahead to demand Bligh's resignation] ... that the Governor had concealed himself. This intelligence was truly alarming, for I had everything to fear from the agitation it was likely to produce.¹³¹

Johnston was correct to be concerned when Bligh was not immediately detained. Bligh confirmed this in his opening speech at Johnston's court martial. He stated that in the first confusing minutes of the *coup* 'I had just time to call my orderly serjeant [sic] to have my horses ready while I went upstairs to put on my uniform'. Then, after seeing soldiers searching for him, he hid in:-

a back room, to defeat their object, and to deliberate on the means to be adopted for the restoration of my authority, which in such a critical situation could only be accomplished by my getting into the interior of the country adjacent to the Hawkesbury, where I knew the whole body of the people would flock to my standard.¹³²

In other words Bligh was prepared to risk a form of civil conflict by raising a militia to oppose the military. Tactically, Johnston was wise to block Bligh's line of escape. As soon as he knew the governor was missing, he 'immediately drew the soldiers in a line before the Government House, and between it and the people'. This effectively isolated Bligh within. It was only then that Johnston 'directed a small number [of

¹³⁰ HRA, 1, 6, p.576. Address datelined 'Hawkesbury, 1st May 1808'. A brave act in defiance of the Corps' tight control. Signed by twelve persons.

¹³¹ *A Charge of Mutiny*, p.152.

¹³² *A Charge of Mutiny*, p.9.

soldiers] to proceed in search of the Governor'.¹³³

It is argued that the only means available to Johnston to maintain the integrity of the Corps, and at the same time, prevent a breakdown of order, especially amongst the convicts, was a full scale overwhelming mutiny. If speedily and decisively mounted, it would ensure the arrest of Bligh and his executive officers, avoiding potential civil disturbances in the interior. Additionally, Johnston probably felt he had no option but to take note of the emotive sentiments now being stirred up in the regiment by vocal officers and men, such as Kemp, Minchin and Sergeant Major Whittle. Having avoided calling on Bligh in an attempt to resolve the impasse, Johnston's alternatives were to ignore this sentiment and support Bligh against his own officers, or place himself at the head of his regiment and march. This was a military insurrection to protect the Corps' regimental interests.

It is acknowledged that the *coup* also served the purposes of other interested parties. Atkinson, for example, writes of Macarthur seeing 'the Rebellion as an event of great significance in the history of the colony'.¹³⁴ Also Atkinson considers the 'interweaving of three [British] patronage networks' provide the background to 'the events leading up to the Rebellion'.¹³⁵ These were Bank's pro-Bligh group, naval elements opposed to Bligh, and the 'political influence of the Whigs, ... patrons of Bligh's [colonial] enemies'. On the other hand, AGL Shaw depicts the rebellion as 'a personal quarrel' between Bligh and Macarthur 'with disaffected military officers [acting with Macarthur] against constituted authority'.¹³⁶ Supporting this view, J Ritchie writes that 'if Bligh could break Macarthur, he would succeed in imposing his authority on every inhabitant; if Macarthur could resist the governor, he would reduce him to a figurehead.' Nevertheless Ritchie also notes that the soldiers were 'spoiling for a showdown' because they were alarmed by rumours of Bligh's

¹³³ *A Charge of Mutiny*, p.153.

¹³⁴ A Atkinson, 'The British Whigs', p.84.

¹³⁵ A Atkinson, 'The British Whigs', p.74.

¹³⁶ AGL Shaw, 'Some Aspects of the History of New South Wales 1788-1810', *JRAHS*, Vol.57, Pt.2, June 1971, p.108.

intention to charge the six officers.¹³⁷ Like Shaw, CMH Clark sees Bligh and, to a lesser extent, Macarthur as the villains of the incident, but while he gives an account of the rebellion, he does not explain why it took place.¹³⁸ Evatt considered that social and economic issues were the underlying causes the rebellion. He wrote that Bligh became the idol of the small agriculturists. Against him the trading monopolists, including the officers of the regiment, were opposed on the grounds of self-interest.¹³⁹ Based on Abbott's letter to ex-Governor King, Evatt argues that the mutiny was preplanned by Johnston and Macarthur, rather than a spontaneous event.¹⁴⁰ This short selection of widely diverse views, illustrates the multiplicity of factors which had a bearing on the mutiny. While each of these varied opinions are relevant, it is argued that none adequately explain why a whole regiment mutinied.

Even Macquarie, after he assumed the office of governor, found it 'extremely difficult to form a Judgment on this delicate and mysterious subject'. But he wrote, 'in justice to Governor Bligh, ... I have not been able to discover any Act of his which could in any degree form an excuse for ... the violence and Mutinous Proceedings against him'. Nevertheless, while Macquarie defended Bligh over the mutiny, he did not respect him. He noted that Bligh's government was 'extremely unpopular, particularly amongst the higher orders' and in Macquarie's opinion, Bligh was a 'most unsatisfactory Man to transact business with'.¹⁴¹ So, even in contemporary times, Macquarie, an experienced senior officer, could not arrive at a rational explanation for the mutiny even though he took 'particular pains to discover the cause'.

It is argued that Johnston did not mutiny because of objections to Bligh's method of governing, nor to aggrandise personal power as lieutenant-governor. The

¹³⁷ J Ritchie, *The Wentworths Father and Son*, Carlton, reprinted 1999, p.111.

¹³⁸ CMH Clark, *A History of Australia, I, From the Earliest Times to the Age of Macquarie*, Carlton, reprinted 1974, pp.214-227. In this conclusion, Bligh is described as 'the man who was angry without cause [who] bequeathed no monument of achievement to posterity (p.234).

¹³⁹ HV Evatt, *Rum Rebellion*, p.350.

¹⁴⁰ HV Evatt, *Rum Rebellion*, p.234.

¹⁴¹ HRA, I, 7, p.331. Private letter to Castlereagh of 10 May 1810.

officers as a group would not have risked facing a capital punishment charge to protect their own, or Macarthur's, trading interests. Neither would Bentham's philosophy of civil processes have been a rallying cry inspiring the regiment as they marched on Government House. Soldiers had little sympathy with such issues. Only a conviction of great concern, shared by a considerable majority of all ranks, can explain this insurrection. Johnston would have known that when he gave his order to march, apart from ingrained obedience to orders, the officers and men would obey this mutinous order because that was their inclination. The majority were not prepared to see their regiment torn apart by what may well have happened if six of their officers were imprisoned for a capital offence. Bligh's comment, which directly contradicts this writer's argument, was the 'subversion of His Majesty's Government was effected in consequence of a settled plan of McArthur's, and not by a mere accident arising from the business of his Trial.'¹⁴² There is no doubt Macarthur set the scene by his consistent actions up to and during his trial in January 1808. Nevertheless, the officers would not have mutinied simply to support Macarthur as Bligh asserted. Rather, the six officers were already so implicated by their anticipation of being charged with treason, they stood to gain by a mutiny which they hoped could be justified. The remaining officers and soldiers mutinied because the collective wellbeing of the Corps was under great threat should Bligh's disciplinary actions not be forcefully stopped.

Bligh later reported to London, that on the afternoon of 26th January 'The Civil power appeared to be in a precarious state'.¹⁴³ In longer term historical perspective, this mutiny can be seen as a continuation of struggle for dominance of the military over the civil power which commenced during Phillip's government. But, the soldiers who marched on the evening of 26 January, were not concerned in perpetuating such a drawn out power play. They believed that the insurrection was necessary to protect vital regimental interests.

¹⁴² HRA, I, 6, p.433. Bligh to Castlereagh of April 1808.

¹⁴³ HRNSW, 6, p.614. Secret dispatch, dated April 1808.

Chapter 12

The Struggle to Restore Order: Macquarie and the 73rd Regiment

Despite the overthrow of the civil power by the military in their successful rebellion against Bligh, the civil power was responsible for supervising the withdrawal of the New South Wales Corps from the colony after twenty years garrison duty. It was also the end of an era, as Bligh was the last naval officer to be appointed Captain-General and Governor-in-Chief in the colony. His replacement was Lieutenant Colonel, afterwards Major General, Lachlan Macquarie, the first army officer to hold the same civil title as the naval governors.¹ Before his appointment as governor, Macquarie had commanded the 73rd Regiment of Foot which later accompanied him to New South Wales. Because of this close association with the 73rd, it could be presumed that, compared to the relationship of the New South Wales Corps with the naval governors, Macquarie would have no particular problems with his troops. This chapter examines internal security in the colony, with Macquarie's government representing the civil power, and the 73rd Regiment, the military power.

The first two ships to depart Port Jackson for England, after Bligh was deposed, were *Dart*, sailing on 20 April, and *Brothers* on 2 May 1808. Both ships together with the China Fleet arrived in southern England on 12 September 1808,

¹ HRA, I, 7, p.183. For Macquarie's title, the same as Bligh's.

bringing the first tidings of the insurrection.² Edward Macarthur noted that the colonial rebellion made 'little impression on the public mind, and excite[d] still less at the offices [presumably the War and Colonial Office]' due to concern with the current war and particularly the Peninsula campaign.³ A reading of *The Times* from September to December 1808, makes Edward Macarthur's comment understandable with the Peninsula War dominating. In this three month period there were only two published references to New South Wales, both of which were inspired by Macarthur. The first of 15 September 1808, reported the arrival of *Dart* and that in New South Wales there was 'some disturbance' of which particulars were not known except that Governor Bligh has been arrested and would probably be sent home in confinement. The item concluded with the verbatim text of Johnston's proclamation of 27 January 1808 advising the cessation of martial law. The second, of 17 September 1808, is shown as Figure 24.⁴ Despite the lack of information in *The Times*, and Edward Macarthur's opinion that the insurrection excited little official interest, there was a quick government reaction to news of the rebellion. By 11 October 1808, the Secretary of State for War and the Colonies, Viscount Castlereagh, had discussed the matter with King George III, and on that date wrote to the Commander-in-Chief:-

it is His Majesty's pleasure that a regiment should proceed without delay to New South Wales, and that the regiment there stationed should be brought back, and that an arrangement should be made for relieving at proper intervals the troops which may be necessary for the protection of the colony.⁵

Not only did this direct that the Corps be relieved, but also, no longer would troops remain in the colony long enough to risk their becoming integrated into the local community.

² *Some Early Records of the Macarthurs of Camden*, ed. S MacArthur Onslow, Sydney, 1914, p.167. Edward Macarthur's letter of 30 September 1808.

³ *Some Early Records*, p.167.

⁴ *Times*, London, No.7467 of Thursday 15 September 1808, p.4, first column (p.4, a), and No.7479 of 17 September 1808, p.3, d, respectively.

⁵ *HRNSW*, 6, p.779.

commanders did not, instead of stipulating to convey the French away, stipulate to convey themselves away, and the enemy would then have been left to the brave Spaniards—to men who would have known much better how to deal with them.

The latest advices from New South Wales reached down to the 19th of April, and were brought to England by a South Whaler. By these it appears, that the convicts took no part whatever in the late disturbance in that country, which had its origin in a difference between the Colonists and Governor BLIGH. The latter had thought it expedient, on various occasions, to put in confinement some of the respectable inhabitants, as it was conceived, on unwarrantable grounds. At length the people became tumultuous, and demanded the Governor, and were beginning to proceed to acts of violence, in order to get him into their power. Major JOHNSTONE, who had the command of the military in the absence of Lieut.-Colonel PATTERSON, who was at one of the dependencies, finding the people were unmanageable, in order to restore tranquillity, promised to confine the Governor until his conduct was properly investigated. He accordingly dispatched a guard to his house to seize him; but the Governor having received intimation of his intended arrest, made his escape, and hid himself in an adjoining house, where he was found under a bed; from whence he was dragged. He was immediately put in a place of security, and Col. PATTERSON was sent for, who it was expected would send him home. This affair has terminated, and the colony became immediately tranquil.

Figure 24: *Times* report of 17 September 1808

Edward Macarther's account of the insurrection against Bligh

Another important decision, was the replacement of Bligh by an army officer. Castlereagh first offered the governorship to Brigadier General Miles Nightingall, informing him:-

the Government of that colony should be placed on a more respectable footing than it had hitherto been, and that for this purpose a general officer, with a regiment of the line, should be sent there, to whom shall be entrusted the administration of the colony. Considering you as qualified to reestablish tranquillity and correct abuses in a settlement which appears ... to have fallen into a state of great disorder and insubordination, I am ready to submit ... your name to His Majesty⁶

Banks gave a more colloquial explanation to Mrs Bligh for the change of service; 'The present unfortunate affair [the insurrection] has proved that soldiers do not like to pay the obedience they owe to a sailor, tho' it is probable they would not have refus'd it to an officer of their own cloth.'⁷ So ended the reign of naval captains-general in New South Wales. To accompany Nightingall, should he take up the appointment, the 73rd (Highland) Regiment of Foot⁸ was approved by the War and Colonial Office to replace the New South Wales Corps, with that Corps being redesignated the 102nd Regiment.⁹

Associated with the introduction of the 73rd into the colonial history of Australia was the name of Lachlan Macquarie. This officer, as a brevet lieutenant colonel had sailed from England and joined the 86th Regiment in India in August 1805. Meanwhile, from 30 May 1805 (unknown to him till late in 1805) he had been promoted lieutenant colonel and appointed to command the 73rd, which in September 1805 returned to Scotland from India. On his arrival in India, Macquarie was in no hurry to join his new command. Instead, after some active

⁶ HRNSW, 6, p.813. Letter of 14 December 1808.

⁷ HRNSW, 6, p.816. Letter of 24 December 1808.

⁸ *Army List 1809*, no other bibliography, (courtesy of Black Watch Museum, Perth, Scotland), p.265, for regimental title. The 73rd was raised in 1779 as a second battalion of 42nd (Royal Highland) Regiment, better known as the "Black Watch". In 1786, the battalion was renumbered the 73rd and in 1881 was redesignated the 2nd Battalion, 42nd Regiment, P Howard, *The Black Watch*, London, 1968, pp.33, 69-72.

⁹ HRNSW, 6, pp.782-783, nomination by Commander-in-Chief, of October 1808 and Castlereagh's reply of December 1808, p.813. Castlereagh was not in favour of the Corps being retitled the 102nd Regiment.

campaigning in Gujarat, he rejoined the staff of his Scottish friend Governor Jonathan Duncan in Bombay, and served a year as his Military Secretary. Looking ahead to when Macquarie was governor of New South Wales, Ritchie notes:-

Though on the periphery of civil administration, Macquarie gained knowledge in the area that provided him with the only model of government he had experienced intimately ... he watched, listened and absorbed the Duncan style [of governorship], its strengths as well as its weaknesses.¹⁰

After this exposure to civilian government, Macquarie finally joined his regiment at Perthshire, Scotland, in early 1808.¹¹

On arrival at Perthshire, Macquarie found the 73rd reduced to skeletal proportions with 512 soldiers transferred to other regiments before the unit left India.¹² In December 1808, Macquarie received orders that the 73rd was to proceed to England, prior to embarking for New South Wales.¹³ At this time, despite a year of strenuous recruiting, there were still only 400 other ranks on strength of the battalion. With only limited numbers of recruits enlisted from Scottish militia regiments, the majority of volunteers were from the Irish militia, together with thirty-three men from the Staffordshire militia (the only English corps in which the 73rd were allowed to recruit), 'a circumstance totally unexpected, from the dislike English soldiers were known to entertain to the Highland uniform'.¹⁴

As experienced by the 73rd, there was now a paucity of Scotsmen being enlisted in Scottish regiments. This led to the Horse Guards issuing a

¹⁰ J Ritchie, *Lachlan Macquarie A Biography*, Carlton, 1986, p.78. For Duncan and this period of Macquarie's life, pp.74-81.

¹¹ J Ritchie, *Lachlan Macquarie* p.83-86. For departing India, in March 1807, and returning overland through Persia and Russia.

¹² J Ritchie, *Lachlan Macquarie*, p.90, for arrival Perthshire,

¹³ R Cannon, *Historical Record of The Seventy-Third Regiment*, London, 1851, (courtesy of Black Watch Museum), p.22. The regiment commenced its march from Perth on 26 December to embark at Leith for England.

¹⁴ R Cannon, *The Seventy-Third*, p.22.

memorandum,¹⁵ on 7 April 1809, ordering that six of the fifteen numbered Scottish Regiments of Foot were to 'lay aside their distinguishing dress which is objectionable to the natives of South Britain'. These were the 72nd, 73rd, 74th, 75th, 91st, and 94th, which regiments 'should no longer be considered as on that [Scottish] establishment.'¹⁶ With this change coming shortly after the 73rd marched into its temporary barracks on the Isle of Wight, in March 1809, the battalion, now a standard line regiment, had a wider selection of English militia units from whom volunteers could be called. In a second round of recruiting, there was a considerable increase in numbers, particularly from the Stafford, West Middlesex, and Durham militia regiments. With these men and sixty volunteers from veteran battalions, the 73rd was 'upwards of eight hundred strong' prior to sailing from England. This still represented a shortfall in soldiers as the regiment's establishment strength was 54 sergeants, 22 drummers and 1000 other ranks, divided into ten companies.¹⁷

As well as the 73rd changing its status in April 1809, so too did that of its commanding officer, who had previously been nominated lieutenant-governor designate. Illness prevented Nightingall going to New South Wales as governor, and others, including General Francis Grose, Colonel of the 102nd Regiment, notable if not notorious as a former lieutenant-governor of the colony, applied for that appointment.¹⁸ Another applicant was Macquarie, who referring to his thirty-two years' service naming Arthur Wellesley and the Duke of York as his

¹⁵ The Horse Guards being the office of the Commander-in-Chief, London.

¹⁶ R Cannon, *The Seventy-Third*, footnote to pp.23-24, for Horse Guards Memorandum. Refer: WY Carman, *Richard Simkin's Uniforms of the British Army, Infantry, Royal Artillery, Royal Engineers and other Corps*, Exeter, 1985, pp.98,99 and 144, for five of the six later reverted to being Scottish regiments. These were the 72nd in 1829, 73rd in 1862, 74th in 1845, 75th in 1862 and 91st in 1863. The 94th never regained status as a Scottish unit. It was linked with the 88th in 1881 to become the Connaught Rangers.

¹⁷ R Cannon, *The Seventy-Third*, pp.23-24. The regiment was accompanied by 100 wives and 60 children, *HRNSW*, 7, pp.99-100.

¹⁸ *HRNSW*, 7, p.99. Request to Under Secretary Cooke of the Colonial Office, of April 1805.

supporters.¹⁹ With 'a dearth of applicants', apart from Grose and Macquarie, and with the 73rd awaiting embarkation, in late April, Castlereagh apparently had little option other than to appoint Macquarie as governor.²⁰ Although his commission as governor was dated 24 May 1809,²¹ official correspondence of 29 April 1809 refers to 'Lachlan Macquarie, Esq're, who is appointed Captain-General and Governor-in-Chief' of New South Wales.²²

With Macquarie's appointment as governor, the command of the 73rd passed to Lieutenant Colonel Maurice Charles O'Connell, who as a distinguished brevet-major was appointed to the 73rd, in the rank of major on 15 October 1806. He was promoted to lieutenant colonel on 4 May 1809,²³ shortly before the regiment embarked on 8 May to sail on 25 May 1809.²⁴ Presumably O'Connell assumed command of the 73rd before the regiment sailed, as would have also been the case with his civil appointment as lieutenant-governor designate. It is sometimes mistakenly stated that Macquarie commanded the 73rd in New South Wales. But in Ensign Huey's journal, it appears certain that when he refers to 'the Governor', this is a different officer to the one he identifies as 'the Commanding Officer'. For example, when the governor embarked on 21 May 1809, he was

¹⁹ J Ritchie, *Lachlan Macquarie*, pp.94-95. *ADB*, 2, p.190, has a slightly different version of Macquarie's quest for office. In that he wrote to Dundas, the commander-in-chief, mentioning his thirty-two years' service, as a basis for promotion to colonel. Separately, he wrote to Castlereagh, 'with the support of' York and Wellesley, for the appointment of lieutenant-governor. Later, he 'boldly wrote to Castlereagh again, offering his services as governor'.

²⁰ J Ritchie, *Lachlan Macquarie*, p.95, for 'dearth'.

²¹ *HRA*, 1, 7, p.183.

²² *HRNSW*, 7, p.110. Admiralty to Cooke.

²³ *Army List 1809 and 1810*, (courtesy Black Watch Museum), pp.265 and 270 respectively. Unnumbered Appendix to R Cannon, *The Seventy-Third*, pp.70-71; for career of Lieutenant General Sir Maurice Charles O'Connell, KCH.

²⁴ R Cannon, *The Seventy-Third*, p.24. O'Connell's appointment to a former Scottish regiment appears unusual, as he was born in County Kerry, Ireland and originally training for the priesthood, p.114. In New South Wales, he married Mary Putland, Captain Bligh's widowed daughter, who remained in Australia, not returning to England with Bligh, p.122. As O'Connell was promoted only four days before embarkation, it can be presumed that this was to command the 73rd in place of Macquarie, now appointed governor.

'attended by Colonel O'Connell'.²⁵ Again Huey noted in his entry of 24 February 1810, that 'Colonel O'Connell returned from Colonial duty [as lieutenant-governor] and resumed the command of the regiment.'²⁶ An ultimate authority as to who commanded the 73rd was given by Macquarie, who directed O'Connell to 'make the contents of this letter known to the officers of the 73rd Reg't under your command'.²⁷

To clarify this command structure in the colony, Macquarie as 'Captain-General and Governor-in-Chief' had command over 'garrisons, castles, forts, and all other fortifications or other military works' in the colony.²⁸ In this regard, he had absolute command over the 73rd Regiment, but under the recognised military chain of command, this was exercised through the Commanding Officer and Regimental Headquarters of the 73rd. Therefore, in a military sense, Macquarie was the superior commander in the colony, but *not* the commanding officer of the 73rd. This was the same situation as when naval officers were the colonial governors.

Before he left England, Macquarie was given instructions²⁹ regarding re-establishing security and the dominance of the civil power over the military in the colony. This included directions about actions to be taken against particular individuals. The complete range of these instructions and orders is contained in several documents, commencing with the Colonial Office's requirement stated to

²⁵ A Huey (Ensign), *The Voyage of the 73rd of Foot*, photocopy of typed manuscript. By courtesy Black Watch Museum, reference 'BW Arch 0415. Typescript', p.2.

²⁶ A Huey (Ensign), *The Voyage of the 73rd*, p.24.

²⁷ *HRNSW*, 7, p.472. Letter of December 1810. Other references to O'Connell commanding the 73rd are scattered in *Historical Records of Australia*, for example *HRA*, 1, 7, p.631. O'Connell to Macquarie of November 1812, refers to 'my Regt.'

²⁸ *HRNSW*, 7, p.127; being extracts from Macquarie's commission.

²⁹ *HRA*, 1, 7, pp.190-197, and Commentary Note 61 (p.803) for Macquarie's formal Instructions and comment thereon. These make no reference to actions Macquarie was to take in the wake of the insurrection against Bligh. Castlereagh's directive on this is contained in Dispatch No.2 of 14 May 1809, passed to Macquarie before he departed from England, pp.80-83.

the Admiralty that 102nd Regiment be returned to England.³⁰ Two instructions which related to the officers of the 102nd, directed that Johnston be returned to England in close arrest and specifically, Colonel Paterson and Lieutenant Colonel Foveaux were also to return,³¹ additionally:-

all officers of the New South Wales Corps should return to Europe with the regiment, with exception to such officers who, having been at Port Dalrymple, or any other out settlements during the time of the arrest of the Governor, shall, upon application, receive his licence to remain in New South Wales; or such officers as, being on their passage from England at the time, may receive permission to exchange into the 73rd Foot.³²

These directives were a necessary measure intended to make a clean sweep of all military officers involved in the insurgency.

The victim of the insurrection, Bligh, if still confined, was to be released and reinstated as governor with the proviso 'that he do give up the government into your [Macquarie's] hands immediately'.³³ Even with this caveat, it may be the Colonial Office was concerned that Bligh could attempt some vengeful or unpredictable action during this formal reinstatement. In a directive to Bligh, the Colonial Office instructed that he was 'not to proceed to the general exercise of the functions of Governor ... [but] receive Col. Macquarie as your successor'.³⁴

Macarthur as a civilian was to be investigated, charged and tried in the colonial Criminal Court. These proceedings would have to be conducted by the Deputy Judge-Advocate Ellis Bent who travelled out from England with Macquarie, replacing the incompetent Atkins, who might be allowed to return to England. Also, all grants, and appointments made under the rebel administration were to be revoked and those dispossessed civil officials who held positions under Governor Bligh, were to be reinstated. Trials and investigations, of Bligh

³⁰ HRNSW, 7, p.112. This also covered the outwards journey in HMS *Dromedary* and *Hindustan*.

³¹ HRNSW, 7, p.143, for Johnston and p.144 for Paterson and Foveaux.

³² HRNSW, 7, p.141. Under-Secretary, Colonial Office to Quartermaster-General of 11 May 1809. The phrase 'his licence', appears unusual, but a correct transcription.

³³ HRNSW, 7, p.143.

³⁴ HRNSW, 7, p.149. Under-Secretary's letter of 14 May 1809.

supporters, such as those of William Gore and George Suttor, who refused to bow to the military, 'cannot be considered as legal so as to bind you to confirm them'.³⁵

While the above measures were to be undertaken against the rebel administration and officers of 102nd Regiment, neither the British Government, nor Macquarie, expressed the slightest concern regarding the incoming governor's ability to exercise control over the former rebel unit. As well as two warships and the 73rd to reinforce Macquarie's rule, before the arrival of the main body of the 73rd Regiment in December 1809, that unit already had troops on the ground in Sydney. Two Government and General Orders of 14 August 1809, published by the rebel administration, gave the first official news in Sydney of a new incoming administration appointed by the British Government. These orders were;-

The Lt Governor has received an official notification that the New South Wales Corps has been numbered the 102nd Reg^t of the Line.

and

The Detachment of the 73rd Reg^t under the Command of Captain Cameron will arrive this day in the Boyd transport, [and] will disembark in the Course of the day.³⁶

A private letter of October 1809, provides evidence that it was clearly understood in Sydney the detachment 'Commanded by a Captain and two Subalterns ... are a part of the relieving Regiment'.³⁷ In late 1809, there was no doubt that the colonial service of the New South Wales Corps, now the 102nd Regiment, was ending.

On landing at Sydney Cove on 1 January 1810, Macquarie found he was

³⁵ HRNSW, 7, p.144.

³⁶ *Government and General Orders*, State Records New South Wales (henceforth SRNSW), reel 6037, SZ 993, pp.103-104.

³⁷ *Brabourne Collection*, Mitchell Library (ML), reel FM4 1748, A 78-5, p.173. From WM Grice? to Mrs Bligh of 6 October 1809. The strength of other ranks is not stated. Refer: C Bateson, *The Convict Ships 1787-1868*, Glasgow, 1969, pp.172 and 326, for the troops came out from Cork guarding 139 male convicts, presumably the soldiers numbered between twenty and thirty. Bateson does not note the size of the detachment, nor, the point of interest, that these were the first troops of the 73rd to reach the rebel administered colony.

unable to carry out his instructions regarding Johnston and Macarthur as both, with Lieutenant-Governor Paterson's approval, had departed from the colony in *Admiral Gambier* in March 1809. Johnston had been directed to 'personally explain to His Majesty's Ministers the measures you have found it necessary to pursue'.³⁸ Thus, the rebel military clique endeavoured to gain an advantage by presenting their case to the English authorities before Bligh's return. Likewise, Macquarie could not formally reinstate Bligh as governor, as the latter, having broken his agreement with Paterson to depart for England in HMS *Porpoise*,³⁹ was sheltering in the Derwent River, Van Diemen's Land.

As ordered by Macquarie, the 102nd Regiment lined the route from Sydney Cove to Government House, then, after parading with the 73rd at Macquarie's inauguration as governor, Macquarie instructed that the 102nd was to be issued with 'an extra allowance of liquor ... in honor [sic] of the ceremony that took place this day'.⁴⁰ Paterson and Foveaux paid their respects to the new governor and were treated with civility. Surprisingly that day, with the stigma of rebellion, and a court martial in England, hanging over Foveaux's head,⁴¹ Macquarie's first Government and General Order appointed Foveaux:-

to command the troops at head-quarters, at Sydney, and to give such order as he may judge necessary and expedient for conducting the several garrison duties and details. [He] is to be received ... with the same compliments as are due to a colonel in the Army'.⁴²

On his return to Sydney Town, Bligh told Macquarie he was 'surprized' at the appointment, as Foveaux 'had been so much in the habit of persecuting the

³⁸ HRNSW, 7, p.15. The ship sailed on 28 March 1809, refer p.155.

³⁹ HRNSW, 7, p.17.

⁴⁰ HRNSW, 7, p.248. Written order, Macquarie to Paterson. Government and General Order, p.254. for liquor issue.

⁴¹ HRNSW, 7, p.229. Legal opinion, presumably to the British Government, of November 1809. The judge-advocate general's recommendation of March 1811, was to wait for the result of Johnston's trial, p.504.

⁴² HRNSW, 7, p.254.

loyalists and myself when his Commander-in-Chief'.⁴³ As Macquarie and Foveaux had not previously served together, nor had any known social links, there was no common bond which can explain why Macquarie immediately appointed Foveaux to a position of military command over two regiments. This outranked O'Connell, who was both the 73rd's commanding officer and lieutenant-governor of the colony.⁴⁴ Macquarie's reason for appointing a rebel to such a position of command, second only to himself, demands an attempt to understand why Macquarie took such an action.

After the pilot, Foveaux was the first rebel administration official to board HMS *Dromedary* and greet Macquarie when the ship arrived at Port Jackson on 28 December 1809. Ritchie writes that 'Foveaux, [was] quite the man of business, with fresh provisions and the news that his commanding officer ... Paterson, lay indisposed'.⁴⁵ Foveaux must have made a considerable impact on Macquarie, who would have needed to update himself on the local situation ashore, in order to plan his orderly takeover of the administration of the colony. Further, without appointing Foveaux to any military or civil appointments⁴⁶, Macquarie could have "requested" him to call at Government House, to make use of Foveaux's local knowledge, which, as pointed out by Ritchie was indispensable to Macquarie. As the former rebel 'coveted his [Macquarie's] favour and hoped - with his backing - to be exculpated for not having reinstated Bligh',⁴⁷ no doubt Foveaux, even without an appointment, would have given maximum assistance to Macquarie. Again, Macquarie had no imperative to appoint Foveaux to a command position superior to that of O'Connell on the basis of their respective regimental seniorities in the

⁴³ HRNSW, 7, p.310. Bligh to Castlereagh of March 1810. Bligh was incorrect in referring to himself as being 'Commander-in-Chief', his commission appointed him 'Captain-General and Governor-in-Chief', refer HRA, 1, 6, p.2.

⁴⁴ ADB, 1, pp.407-409. Prior to 1810, there is no record of Foveaux having served with, or under, Macquarie. No reference has been found to indicate any social links.

⁴⁵ J Ritchie, *Lachlan Macquarie*, p.118.

⁴⁶ HRNSW, 7, p.255. Government and General Order of 4 January 1810. In addition to his military command, this order placed Foveaux in charge of 'public works and buildings of every description'.

⁴⁷ J Ritchie, *Lachlan Macquarie*, p.134.

rank of lieutenant colonel.⁴⁸ He had by-passed appointing the ailing Paterson, and could have done the same with Foveaux. Finally, in view of ‘Castlereagh’s and [Undersecretary] Cooke’s decisiveness’ in supporting Bligh’s cause after 1808,⁴⁹ it is unlikely that, as a result of some British governmental “secret agenda”, or because of his service as lieutenant-governor of Norfolk Island,⁵⁰ Foveaux received preferential treatment by Macquarie. However, Fletcher comments that Foveaux’s rapid promotions ‘in an unimportant outpost ... suggests that someone in England may have looked after his interests’.⁵¹ It is feasible that this ‘someone’, was influential and spoke favourably of Foveaux before Macquarie departed from England. In that age of patronage, for a person in Macquarie’s position, to do a favour for another man’s patron, could later be beneficial to his own interests.

This leads to another conjecture as to why Macquarie was ‘indulgent to his brother officers in the New South Wales Corps’⁵² and especially to Foveaux. Firstly, they were all wearing the same ‘cloth’ (to recall Banks’ quote), and reportedly, Macquarie was anxious ‘to promote the tranquillity of the colony’.⁵³ However, to an experienced soldier like Macquarie, such sentiments would not have protected the Corps’ officers for an instant, if he considered the situation demanded strong action be taken. Some of all of these considerations; the same ‘cloth’, Macquarie’s endeavours to ensure tranquillity, and possibly prejudice against Bligh, which Macquarie may have gathered from Foveaux and others, could have made him sympathetic towards the Corps’ officers. But, it is possible an additional factor worked in the Corps’ favour. At the time of the 1808 *coup*

⁴⁸ ADB, 1, p.408. Foveaux promoted April 1802, against O’Connell in May 1809 (as noted earlier).

⁴⁹ J Ritchie, *Lachlan Macquarie*, p.107. Ritchie cites the French revolution in 1789, two British naval mutinies in 1797, and rebellion in Ireland in 1798 as factors which influenced Castlereagh and Cooke.

⁵⁰ A-M Whitaker, ‘Joseph Foveaux: ‘A gentleman of high repute’, *JRAHS*, Vol.82, Pt.1, June 1997, p.26 and *passim*. Whitaker commends Foveaux’s service in Norfolk Island and dismisses much slander concerning this phase of his service.

⁵¹ ADB, 1, p.409.

⁵² J Ritchie, *Lachlan Macquarie*, p.121.

⁵³ HRNSW, 7, p.257. For ‘tranquillity’ in *Proclamation* of 4 January 1810.

d'état, the Corps was commanded by Major Johnston and here was a link of adolescent friendship, between two Scots, Lachlan Macquarie and George Johnston. They had both served together as ensigns on garrison duties in North America in 1777.⁵⁴ It is possible that in 1810, Macquarie was honouring that friendship by endeavouring to quickly normalise relationships between the Corps, now the 102nd Regiment, and his administration and 73rd Regiment. His preferential treatment of the Corps and its senior actively fit officer, Foveaux, who was likely to face a court martial in England, could transmit an impression to the War Office and Horse Guards that the mutiny was considered of less significance in the colony than was first thought. This could work in favour of Johnston who was already in England, and possibly subjected to legal inquiries concerning the mutiny

Yet, given the British Government's alarm at the insurrection against Bligh,⁵⁵ it would seem logical for Macquarie to have appointed O'Connell to command the troops in Sydney. Additionally, while the 102nd remained in their barracks and billets, the 73rd had to occupy a temporary camp site 'formed yesterday [31 December 1809] ... at Grose's Farm'.⁵⁶ So, having been embarked for over six months, landed, taken part in the ceremonial swearing in of Macquarie, the 73rd then marched three miles to reach their rough camp site by 2pm. Further, apparently they were not even favoured with a special liquor issue as were the former rebels, the comfortably billeted 102nd Regiment. Instead, on the 73rd's arrival at their camp site, there was 'Nothing to eat this day but potatoes'. Then, the 'whole regiment was busily employed burning the stumps of trees which

⁵⁴ J Ritchie, *Lachlan Macquarie*, p.116. Macquarie born 31 January 1761, p.12. ADB, 2, p.20. Johnston born 19 March 1764.

⁵⁵ HRNSW, 6, p.777. Edward Macarthur (in London) to his father, of October 1808, 'the Government will, I fear, to the very last, support Bligh'. Also, p.779, Castlereagh to Duke of York, of October 1808, 'for restoring subordination ... bringing to trial those whose conduct seems most culpable'.

⁵⁶ HRNSW, 7, p.255, for formation of camp.

prevented the regiment drilling.’⁵⁷

The favourable treatment of Foveaux and the 102nd, was at the expense of those officers and men of the 73rd who accompanied Macquarie to the colony, and whose loyalty he had no reason to doubt. George Suttor, who was imprisoned during the insurrection for his refusal to recognise the legitimacy of the rebel government, considered that Macquarie had a decided preference for the few wealthy emancipists who had supported the mutiny. He added that the ‘few free settlers who had been loyal [to Bligh] were totally neglected or granted very small pieces of land.’⁵⁸ As well as apparently favouring the anti-Bligh faction in the colony, it appears that Macquarie offered at least one public slight to Bligh.

Ensign Huey’s recorded in his journal that:-

On 17th [January] Commodore Bligh arrived in His Majesty’s Ship “Porpoise”. The 102nd was drawn up on the wharf to receive him, but he refused to come on shore and said he would not be received by those who had so lately threatened to cut his throat. The following day at 11.00 in the forenoon Commodore Bligh came on shore and was received by our flank companies, who had marched into Sidney [sic] for that purpose.⁵⁹

The orders for parading the 102nd, although presumably issued by direction of Foveaux, must have had Macquarie’s endorsement. Arrangements for Bligh’s reception would have been a sensitive issue, one carefully considered and approved by the governor. The officers of 102nd, who paraded with their companies at the wharf, were “rebels” as far as Bligh, his supporters, and legal advice to the British Government were concerned.⁶⁰

On 1 January, Macquarie warned the 102nd to be ready to embark for England in ‘a very few weeks’.⁶¹ But this proved impossible, due to the time

⁵⁷ A Huey, *The Voyage of the 73rd*, p.22, for activities on 1 January 1810.

⁵⁸ *Memoirs of George Suttor FLS Banksian Collector (1774-1859)*, ed. G Mackaness, Sydney: Australian Historical Monographs, Vol. XIII (New Series), 1948, p.50.

⁵⁹ A Huey, *The Voyage of the 73rd*, p.23.

⁶⁰ HRA, 4, 1, pp.47-48. Counsel’s opinion of November 1809.

⁶¹ HRNSW, 7, p.254.

required for the 73rd to relieve the 102nd at Newcastle, Norfolk Island and in Van Diemen's Land.⁶² Meanwhile, in a Government and General Order of 29 January, after blatantly flattering the 102nd, following a regimental inspection he had conducted that day, Macquarie offered any soldier, under the age of thirty-five, the opportunity of transferring to the 73rd. With the incentive of receiving a 'three guinea' reenlistment bounty,⁶³ 267 men, including a number of ex-convicts, were approved for enlistment by Macquarie at a further parade on 19 March.⁶⁴ This brought the 73rd to almost full strength.⁶⁵

In addition to the 267 men from the 102nd, Macquarie accepted a further 111 old soldiers, with over twenty years service, to form a Veterans' Company, making a total of 378 men transferred from the 102nd. Macquarie advised London that the company would be commanded by an officer of the 73rd.⁶⁶ Regarding the remaining three officer vacancies on establishment, Macquarie made surprising appointments in the selection of the two lieutenants and one ensign.⁶⁷

Surprisingly, Macquarie nominated three officers who were closely involved in the insurrection of 26 January 1808. Lieutenants W Lawson (a fellow Scot) and J Brabyn (now captain) were both members of the 'court' of six officers at

⁶² *HRNSW*, 7, p.343. The last outpost detachment of 102nd, from Norfolk Island, arrived in Sydney on 19 April 1810.

⁶³ *HRNSW*, 7, p.282. The flowery language in the first paragraph was in keeping with typical comments issued by reviewing officers after most inspection parades. But as this General Order was written only twenty-nine days after Macquarie landed and assumed control over this rebel unit, such phrases as 'testimony to the steady discipline and orderly good conduct of the corps' since he assumed command, sounds hollow.

⁶⁴ J. Ritchie, *Lachlan Macquarie*, p.121, for numbers reenlisted and *HRNSW*, 7, p.315 for inspection on 19 March.

⁶⁵ *HRNSW*, 7, p.343. The regiment was now only nineteen men short of its establishment of 1000 other ranks.

⁶⁶ *HRNSW*, 7, pp.343-344. Macquarie's dispatch gave reasons for raising this company, command of, and numbers enlisted. A letter from Macquarie to General Dundas of May 1810, (pp.458-459) explains the background to the formation of the company, including the personal aspect of soldiers with family commitments. London approved vide: pp.299-300, Palmerston to Macquarie of March 1811 (incorrectly dated 1810, and included in that year's correspondence). Footnote p.300, for authorised establishment of 4 officers and 107 other ranks. In fact, Macquarie enlisted 111 other ranks (p.459).

⁶⁷ Presumably, Captain Brabyn was nominated to fill one of the lieutenant's vacancies.

Macarthur's trial on 25 January 1808, and Ensign A Bell commanded the guard which surrounded and searched Government House.⁶⁸ Further, before these officers could commence duty with the company (which was raised on 25 March 1810), they had to return to England in conformity with the British Government's directive regarding officers of 102nd implicated in the mutiny. Obviously Macquarie was doing these three officers a personal favour, as he was not concerned about their absence of at least one year, before they could commence duty with the company. The treatment of these three officers, together with Macquarie's questionable appointment of Foveaux to command the troops in Sydney, and the issue of liquor to the 102nd, but not the 73rd, taken together, present an unusual series of conciliatory command decisions by Macquarie which indulged the rebel officers and men. As probably anticipated by Macquarie, this resulted in the high transfer rate to the 73rd and Veterans' Company, and meant only 320 soldiers of the 102nd finally returned to England.⁶⁹

During the 73rd Regiment's tour of duty in the colony, they carried out routine internal security duties in New South Wales and outlying settlements. From the records, while problems between the whites and Aborigines continued in mainland New South Wales, there were no major clashes or episodes. Even though there was increasing concern over bushranging in Van Diemen's Land, the potentially rebellious Irish were starting to be assimilated into the community. On his return to London, Foveaux, replying to queries from the Horse Guards, wrote:-

The present military establishment of 1,100 effective men far exceeds the necessity; for when the large body of disaffected Irish were sent out the troops did not exceed 450 in all the settlements (tho' they were afterwards increased to 700), and were found perfectly adequate to keep order. All the then turbulent characters who now remain are becoming

⁶⁸ *HRNSW*, 7, p.505 and third footnote. Names of officers and their travel to England and p.506 for their possible return. For Macarthur's criticism of his potential witness Lawson's hasty return to the colony, pp.526-527. First footnote, p.527, for return of the three officers to the colony.

⁶⁹ J Ritchie, *Lachlan Macquarie*, p.121, for total strength and numbers returned. With a unit strength of 697 soldiers and total enlistments of 378, a cross check shows a discrepancy of only one.

possessed of property, and have an interest in the welfare of the colony, and are no longer dangerous.⁷⁰

While Foveaux may have exaggerated the calm in the colony and need for fewer troops, he had apparently failed to consider the increased number of convicts transported to the colony after 1804, for example over 1100 males between 1805 and 1809.⁷¹ Likewise, Foveaux inferred that as there were adequate troops to meet the crisis in 1804, 1100 troops were not justified in 1811. In this comment, he apparently overlooked that while Governor King had only one officer and nine other ranks detached from Sydney Town to Risdon Cove in 1804,⁷² by 1811, Macquarie had two companies garrisoning Van Diemen's Land. With increased internal security problems in that island, of which Foveaux may have been unaware, Macquarie could not have reduced this military commitment at either Port Dalrymple or Hobart Town.

During the latter half of 1810 in Van Diemen's Land, Surveyor-General John Oxley reported on 'atrocious cruelties' practised on Aborigines by convict bushrangers near Port Dalrymple and consequently the Aborigines were 'extremely troublesome to the Solitary Hunter'.⁷³ In response to requests by Lieutenant-Governor Collins and then Lieutenant Lord for more troops in Hobart Town,⁷⁴ Macquarie sent a company of 100 men, commanded by a captain, 'for its Protection, and keeping the Settlers and Convicts under due and proper

⁷⁰ *HRNSW*, 7, p.639. Foveaux to Lieutenant Colonel Gordon of November 1811.

⁷¹ LL Robson, *The Convict Settlers of Australia*, Carlton, reprinted 1976, p.170. *ADB*, 1, p.408. During the Castle Hill Rebellion, Foveaux was a sick man and on duty at Norfolk Island. In his letter he is not commenting from first hand experience. In 1804, even with the two Loyal Association militias, King, supported by Paterson, requested more troops after the rebellion.

⁷² See above, Chapter 9, p.218 and footnotes 46, 48 and 49 for troop strengths in 1804.

⁷³ *HRA*, 3, 1, p.769. Report on Port Dalrymple by Oxley of 'latter half of ... 1810' (p.833, Commentary Note 274).

⁷⁴ Collins died on 24 March 1810, command devolved to Lord (Royal Marines).

Restraint'.⁷⁵ Nevertheless, the activities of bushrangers continued to increase, involving skirmishes with the 73rd. In August 1814, Corporal Fentrill's patrol was captured by Michael Howe's gang.⁷⁶ That same month, a meeting of a bench of magistrates, 'strongly' recommended to Lieutenant-Governor Davey, that 'Military force be ordered out in aid of the Civil authority'. This was agreed by Davey.⁷⁷ Later, in March 1815, in two incidents, Corporal Miller's patrol captured four bushrangers and accomplices on his first patrol and two bushrangers on his second.⁷⁸

Meanwhile, in New South Wales, Macquarie took steps to better maintain order.⁷⁹ In June 1810, he bolstered policing in Sydney Town by ordering the Main Guard be strengthened so that by night, at half hourly intervals, a small military squad would patrol the streets 'to take up all disorderly and idle people'.⁸⁰ He followed this up in October with two comprehensive sets of regulations to cover policing in Sydney and control over Port Jackson.⁸¹ Both these regulations included important internal security instructions, indeed the Police Regulations, although mainly administrative in nature, had no other purpose. In Section 8, referring specifically to 'all *prisoners and labouring persons* [regulation's emphasis]', they were subject to curfew from 9pm until daylight and those prisoners in government employment were to register their lodging with the Chief Constable.⁸²

⁷⁵ HRA, 1, 7, p.261. Macquarie to Castlereagh of April 1810. Macquarie also recommended the return to England, or discharge, of the small remaining marine garrison of two lieutenants and forty-five men (p.284 for marine's strength). HRA, 3, 1, p.466. Approval for return of marines and for married men to become settlers.

⁷⁶ HRA, 3, 2, pp.75-78.

⁷⁷ HRA, 3, 2, p.79, for magistrates and p. 80 for Davey's reply of following day.

⁷⁸ HRA, 3, 2, pp.102-106 and 106-108.

⁷⁹ See above, Chapter 3, p.55, footnote 67, for earlier development of police.

⁸⁰ HRNSW, 7, p.388. Government and General Order of 11 June 1810.

⁸¹ HRA, 1, 7, pp.406-413, for Police Regulations and pp.656-664 for Port Regulations and Orders.

⁸² HRA, 1, 7, pp.412-413.

The Port Regulations and Orders contained much administrative detail relating to the technical management of ships which entered Port Jackson, but throughout the regulations matters of internal security were included. For example, to enforce the regulations, all ships, both British and foreign, were to 'receive a Military Guard on board'. Their tasks included prevention of smuggling items like wine, 'Arms Ammunition, Military or Naval Stores', or embarkation of any 'Convict, Free, Pardoned, or Emancipated person' without proper authority.⁸³ Other matters with internal security implications included the treatment of Aborigines which should be 'in every respect as Europeans' and dealing with deserting sailors and those who harboured them.⁸⁴

Of particular concern to Macquarie was the prevention of any weakening in command and control over troops in the colony. The example of the New South Wales Corps becoming identified with the lower social orders, was a particular matter of concern, to be strictly policed and minimised in relation to the 73rd. Apart from undermining discipline, such a situation could raise doubts about the reliability of troops called out in the event of civil disturbance. There were two separate, but related, aspects to this problem. Firstly, that the Corps had remained too long in the colony and secondly, through billeting in private houses, fraternisation was encouraged, with soldiers forming relationships, marrying, and raising families within the local community. Macquarie's immediate task was to reduce fraternisation. In November 1812, he indicated to London the dimensions of the problem:-

nearly the one half of the 73rd Regiment and Veteran Company are at present quartered in Houses and Huts in different dispersed and distant parts of this populous town ... a circumstance attended with great present inconvenience and much prejudice ... to the discipline, morals and sobriety of the Soldiery and occasionally to the disturbance of the Peace and tranquility [sic] of the Inhabitants.⁸⁵

⁸³ HRA, 1, 7, p.657, for guard and illegal wine, p.658 for arms and ammunition and those embarking and p.664 for prevention of smuggling.

⁸⁴ HRA, 1, 7, p.661, for Aborigines and pp.659-660 for harbouring and deserters.

⁸⁵ HRA, 1, 7, p.529. Macquarie to Liverpool of November 1812.

From March 1810, Macquarie had several times pointed out the need for adequate barracks, including the requirement to accommodate 1000 men.⁸⁶

But the provision of barracks in itself was an inadequate measure, as security walls were needed around the barracks to keep the soldiers in. Macquarie wrote that his intention was:-

to have surrounded the whole barracks ... with a Stone wall to prevent the men from leaving ... and thereby preclude the constant intercourse ... [with] the Inhabitants, which measure cannot be otherwise effected than by surrounding the Barracks with a high wall.⁸⁷

Not only was Macquarie concerned over barracks and walls in Sydney Town, he evidenced the same concern in Hobart Town. During his visit in November 1811, he ordered the barracks presently being built be pulled down and that 'a proper new Military Barrack for 200 Men, and a Military Hospital ... [be built on] "*Barrack Hill*"' (Figure 25).⁸⁸

Unfortunately, discipline of the 73rd had been adversely effected by two factors which had previously undermined the New South Wales Corps; the poor quality of some officers and the problem of fraternisation, discussed above. Macquarie made specific complaints against a number of officers, especially against those on detached duty in Van Diemen's Land. Captain Murray, the first 73rd officer to be commandant at Hobart Town, was directed to resign by Macquarie because of personal scandal concerning his wife, who Murray publicly condemned for 'shameful and abandoned conduct' and then against the accepted

⁸⁶ HRA, 1, 7, p.223, for first raising the issue in March 1810 and p.254 for the requirement for 1000 troops. In October 1811, he informed London that new barracks (capacity not stated) had been built, p.396.

⁸⁷ HRA, 1, 7, p.530.

⁸⁸ HRA, 3, 1, p.456. This order was given, as a memorandum to the then commandant, Captain Murray. In February 1812, his replacement, Major Geils, was given confirming details for building the new barracks, pp.458-459. This being the origin of Anglesea Barracks, the oldest continuously used barracks in Australia. Figure 25, 1961 painting by D Colbron Pearse (1883-1971), original in Anglesea Barracks Military Museum (by courtesy of the Museum).

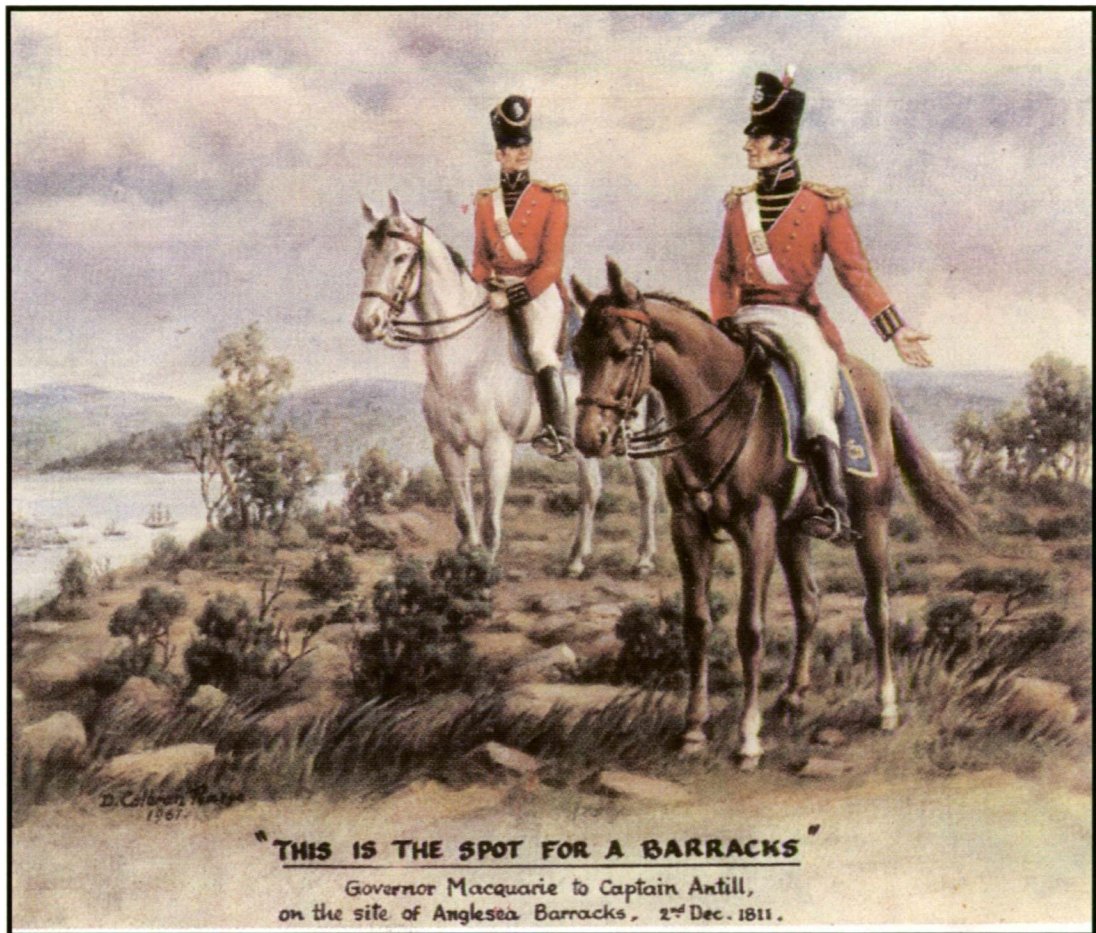


Figure 25: Macquarie selecting the site of Anglesea Barracks, Hobart Town, December 1811.

Anglesea Barracks remains the oldest continuously occupied barracks in Australia.

code of behaviour 'taking [her] back and living' with her again.⁸⁹ Murray was also involved in issuing unredeemed promissory notes and in privately selling a house provided at public expense. Nevertheless he avoided immediately resigning, and after returning to England, was promoted to major before resigning, thus successfully avoiding payment of a total colonial debt of £297.⁹⁰ Murray's replacement, Major Geils, was too overtly greedy in granting his wife and six children 3000 acres and too liberal in an allocation of cattle.⁹¹ Additionally, Geils applied to buy the existing Government House in Hobart Town despite Macquarie having earlier made clear to Geils that the building of a new Government House was not a high priority. Macquarie's comment to Geils was that this application was 'equally unreasonable with that already adverted to of Grants of Land'.⁹² A far more serious failure of an officer in his duty occurred with Major Gordon at Port Dalrymple. An adventurer, JB Hugo (also known as McHugo), who laid claim to being 'the rightful Heir to the *Crown of England* [his emphasis]' sailed into that port and convinced Gordon that he was empowered 'to supersede' him. Macquarie reported that Gordon then:

Actually Surrendered his Command to Mr. McHugo, who was likely to have made a Very Alarming Use of the Power so Yielded to him [sentencing Gordon to death - to be shot next morning⁹³], had not the Other [junior] Officers found it Necessary ... to remonstrate with Col

⁸⁹ HRA, 3, 1, p.475.

⁹⁰ HRA, 1, 9, p.39. For debts owed on promissory notes and the house sale. For January 1817 advice of resignation as a major, and inability to recover monies, p.197.

⁹¹ HRA, 3, 1, p.476. Macquarie relented to the extent he allowed Mrs Geils a grant of 1200 acres with some cattle, because of an earlier promise to her, pp.476-477.

⁹² HRA, 3, 1, p.477. Also: HRA, 1, 8, p.460, for comments on Geils, including that he was 'venal and corrupt'.

⁹³ *73rd Regiment*, unpublished two page paper, compiled by Brigadier EM Dollery, MVO, OBE, MC [Member of the Victorian Order, Order of the British Empire, Military Cross] (a Hobart military historian), Hobart, 1956. Provided by courtesy of The Black Watch Regimental Museum, Scotland. This paper includes a graphic description of the incident. Dollery stated that Gordon was to be shot and that it was Lieutenant William Lyttelton, who hurriedly returned from duck shooting and restored the hapless Gordon to his command. Dollery's account varies from Macquarie's, in the HRA, in regard to the departure of McHugo, whether under threat of 'being thrown into the river' he sailed away, or departed under military guard. Unfortunately, Dollery gives no primary source references.

Gordon, whereby they at length Effected sending Mr. McHugo hither [to Sydney] under a Military Guard.⁹⁴

A more serious scandal involving officers of the 73rd occurred in Sydney Town on the night of 30 June 1813. Two drunken officers, 'in Disguise, and dressed in Coloured Clothes',⁹⁵ set upon and killed an inoffensive man, William Holness, who was endeavouring to protect his wife and another woman from the officers' unwelcome attentions, who were battering at the front door of his home.⁹⁶ The officers were imprisoned and charged in the Criminal Court with 'Wilful Murder'. This court was made up of the judge-advocate, one major, three captains and two lieutenants. The moral calibre of some of these officers is questionable. Major Gordon, of Port Dalrymple infamy, was the senior regimental officer and two of the other officers, Captain Brabyn and Lieutenant Lawson (both now of the Veteran Company) had been members of the infamous court which refused to try Macarthur on 25 January 1808. So, despite a strong prosecution case, the two accused were found guilty of 'manslaughter' only, fined one shilling and sentenced to six months in gaol.⁹⁷ Macquarie was furious that the two officers were not found guilty of murder. He directed that a strongly worded condemnation of 'the intemperate and disgraceful Conduct of Lieutenants Archibald M'Naughton and Philip Connor' be read at the next two parades of the 73rd.⁹⁸ That the accused officers did not suffer to the full extent of the law, has similarities with the John Baughan scandal, where no recorded punishment was inflicted by the military on the four ringleaders who Hunter had initially threatened

⁹⁴ HRA, 1, 9, p.391, for McHugo's claim to royal inheritance, p.545 for Macquarie's 1817 account to Bathurst, by which time Gordon had been promoted to lieutenant colonel.

⁹⁵ HRA, 1, 8, p.6, for quotation from Macquarie's dispatch of July 1813. The officers were Lieutenants M'Naughton and Connor. Presumably 'Coloured Clothes' were a form of civilian dress.

⁹⁶ HRA, 1, 8, pp.9-18. Evidence of witnesses for the prosecution, on which this outline account is based.

⁹⁷ HRA, 1, 8, p.6, for Macquarie using the word, with his emphasis, 'MANSLAUGHTER'. The court, on 9 August 1813, found the two guilty of 'Feloniiously killing and slaying', p.26. The sentence was to be served at Parramatta Gaol.

⁹⁸ HRA, 1, 8, pp.5 and 7.

with punishment 'fatal to some'.⁹⁹

For Macquarie, Holness' killing, and the subsequent manslaughter finding, were the culmination of a number of breaches of military behaviour and discipline involving both officers and soldiers, which led him to take drastic action. He wrote to London:-

gross irregularity of behaviour and an alarming degree of Licentiousness have for a length of time ... marked the general Conduct of the Officers and Privates ... of the 73rd Regiment ... [But] were a better example held forth [by the bulk of the officers], the Privates would, as a body, [have been] as correct as those of other Regiments.¹⁰⁰

Therefore, Macquarie requested the 'immediate removal' of the 73rd, to be replaced by a regiment 'from Home' and that in future no regiment remain more than three years in the colony.

Macquarie deplored that the troops formed 'Matrimonial, or less proper Connexions [sic] with the Women of the Country ... lose sight of their Military duty and become ... identified with the lowest Class of the Inhabitants'. Possibly unintentionally, Macquarie may be referring to influence on the soldiers from England by the 267 soldiers transferred from the 102nd Regiment to the 73rd, and 111 men transferred to the Veterans' Company. Had the 73rd's officers imposed severe discipline on these soldiers when they first transferred, the men, having been shown what was expected of them in their new unit, should not have caused the adverse influence they apparently did.

Macquarie requested that no officers from the 73rd be allowed to exchange into the relieving regiment. This was to ensure such officers did not 'prolong the evil, they have so much fostered'.¹⁰¹ Ritchie wrote that included amongst the

⁹⁹ See above, Chapter 8, p.194, for quotation.

¹⁰⁰ HRA, 1, 8, pp.1-2. Macquarie to Bathurst of July 1813. He exempted 'Some of the Officers' from this criticism.

¹⁰¹ HRA, 1, 8, p.4.

officers was Macquarie's cousin and *aide*, Lieutenant Maclaine, and that the governor 'was heartily glad to be rid of him in 1814'.¹⁰² In conclusion, Macquarie admitted he was:-

most truly distressed in making the present representation of the 73rd Regt., which, from my personal connexion with it, I have formed a strong partiality for, and thence naturally became induced rather to pass over, unnoticed, some occasional deviations (when they were not of a flagrant nature) than to draw them thus into public View.¹⁰³

As an accepted truism, certainly within the British and Australian Armies, the commanding officer is held responsible whether his unit be good or bad.¹⁰⁴ Ritchie notes that 'Long before its removal, the governor had complained of the regiment's nefarious behaviour which he secretly attributed to O'Connell's indolence'. Regarding the sad record of the 73rd Regiment in the colony, Macquarie 'had fondly hoped that a stricter Discipline would have been adopted'.¹⁰⁵ In this regard Macquarie, on his arrival in the colony, probably contributed to a somewhat relaxed attitude by his indulgent treatment of the 102nd's officers and men

Crossing Macquarie's dispatch of July 1813 requesting the relief of the 73rd, the War and Colonial Office wrote to Macquarie in August 1813, advising that the 46th (South Devonshire) Regiment of Foot was to replace the 73rd. Upon arrival in the colony, the ships which had carried the 46th, were to be utilised to transport the 73rd to Ceylon (now Sri Lanka). To save time in preparing for this change-over, the War and Colonial Office instructed Macquarie to relieve outstation detachments of the 73rd with troops from the Veteran Company.¹⁰⁶ In

¹⁰² J Ritchie, *Lachlan Macquarie*, p.139. The 1811 Army List, for 73rd Regiment, p.279, shows John Maclaine promoted to lieutenant.

¹⁰³ HRA, 1, 8, p.5.

¹⁰⁴ Writer's personal experience and general reading. See above, Chapter 5, p.121, for Slim's quotation that 'there are no good battalions and no bad battalions ... only good and bad officers'.

¹⁰⁵ J Ritchie, *Lachlan Macquarie*, p.139 HRA, 1, 8, p.4, for 'stricter Discipline'.

¹⁰⁶ HRA, 1, 8, p.55. Bathurst to Macquarie of August 1813.

reply, Macquarie admitted that company was incapable of such a task as 'Strong and Active Men' were required in Van Diemen's Land whereas soldiers of the Veteran Company were 'old and Infirm'.¹⁰⁷ An unfortunate commentary on their worth in assisting in internal security tasks. Nevertheless, the 73rd were shipped as planned between January and April 1814. Harking back to Holness' death on 30 June 1813, the General Embarkation Return for the 73rd's transfer to Ceylon shows that Lieutenants 'Archibald McNaughton' and 'Philip Connor' sailed on the *Earl Spencer*, in January 1814.¹⁰⁸ With these officers in gaol from July 1813, they would have virtually served their six months. It is surprising that they were not forced to resign, as it is doubtful they would have commanded respect from their fellow officers and soldiers after their release. While presumably Macquarie was pleased to see the final departure of the 73rd, his criticisms still followed eleven months after their commanding officer sailed.¹⁰⁹ He wrote highly critically of both Lieutenant Colonels O'Connell and Geils, who Macquarie believed were 'particularly solicitous to obtain the Lieutenant Government of Van Diemen's Land' to replace the denigrated occupant, Davey.¹¹⁰

The history of the First Battalion of the 73rd in Australia, was not a glorious page in the annals of that regiment. While there was apparently no major conflict of interest between Macquarie representing the civil power, and the military, several problems which led to lack of discipline in the New South Wales Corps were also apparent in the 73rd. Of particular note were poor officer leadership, and fraternisation of the soldiers with local inhabitants. These problems were accentuated by a lack of suitable barracks and the influence and example of those soldiers transferred from the 102nd to the 73rd and Veterans' Company. Nevertheless, it is probable that these same problems would have had worse

¹⁰⁷ HRA, 1, 8, p.119. Macquarie to Bathurst of January 1814.

¹⁰⁸ HRA, 1, 8, p.163. M'Naughton, spelt as quoted above 'McN.'.

¹⁰⁹ HRA, 1, 8, p.142. In *General Hewitt* in April 1814.

¹¹⁰ HRA, 1, 8, pp.460-461. Macquarie to Bathurst of March 1815. He again 'took the liberty to recommend [now] Major General Foveaux' for the appointment.

consequences leading to serious disputation between the civil and military powers, had a naval officer been appointed governor instead of Macquarie. As an experienced military commander, he was in a stronger position than that of a naval appointee to control and discipline the sometimes recalcitrant and self interested detachment commanders and their men, ensuring they carried out their prime role of providing security within the colony.

Chapter 13

The 46th and 48th Regiments

Whilst Macquarie was relieved to see the 73rd Regiment with their troublesome officers gone, his problems were not over as he was to experience difficulties with the replacement unit, the 46th (South Devonshire) Regiment of Foot. This was despite the fact that Lieutenant Colonel George Molle, the 46th's commanding officer, and incoming lieutenant-governor, was an old comrade with whom Macquarie had served in India and Egypt.¹

Two events occurred before the 46th landed in the colony in 1814, which made a clash between the governor and the officers of that regiment inevitable. The first was Macquarie's policy on emancipists, advised in his first dispatch of April 1810, in which he referred to the previous 'illiberal Policy' that existed in the colony in relation to:-

Men who had been originally sent out ... as Convicts, but who, by long Habits of Industry and total Reformation of Manners, had not only become respectable, but ... the most Useful Members of the Community. ... I have ... adopt[ed] a new Line of Conduct, Conceiving that Emancipation, when United with Rectitude and long-trying good Conduct, should lead a Man back to that Rank in Society which he had forfeited ... The Number of Persons of this Description whom I have yet admitted to my Table consist of only four. ... I have already appointed ... [one] a Justice of the Peace and Magistrate ... I intend to Confer the same Marks of Distinction [on two others] ... when Vacancies in the Magistracy ... may occur.²

By 1812, Macquarie was able to write to London; 'I have found the greatest Benefit to result from ... this ... Policy'. However, he did note that some individuals who supported the anti-Bligh faction before his arrival in the colony, now refused to

¹ J Ritchie, *Lachlan Macquarie A Biography*, Carlton, 1986, p.59. HRA, 1, 9, p.442.

² HRA, 1, 7, pp.275-276.

recognise those emancipists favoured by himself, considering them 'Outcasts beneath their Notice'.³

The officers of the 46th Regiment were diametrically opposed to Macquarie's policy on emancipists. This gave rise to the second, and associated problem. Before their arrival in New South Wales, 'on the particular Recommendation of their commanding officer, Colonel Molle' they voted that no emancipists in the colony be allowed entry to their Officers' Mess. When Macquarie learnt of this, he took no action, believing the officers were at liberty to make mess rules as they saw fit.⁴ However, this was later to become a matter of concern to him. Meanwhile, Macquarie was more concerned about two internal security problems; the increasing hostility of the Aborigines in New South Wales, and the scourge of bushrangers in Van Diemen's Land.⁵ Both these issues involved the 46th Regiment.

By April 1814, Macquarie noted that some Aborigines had a 'Spirit of Hostility ... in Retaliation for Injuries done them Wantonly by the Settlers or their Servants'.⁶ The following month he reported that a soldier and three 'Europeans' had been killed in revenge for 'Liberties' being taken with Aboriginal women which had included the killing of one woman and her two children, who were 'treacherously attacked'. In July 1814, a party of sixteen settlers, accompanied by four named Aboriginal guides, were ordered to 'use force in taking' five named 'Wild Mountain Natives',⁷ Despite continuing disturbances, Macquarie expressed optimism that there would be no further attacks on the settlers 'unless provoked',⁸ In October 1814, he optimistically told London that the country was in a 'State of perfect Peace and Tranquility [sic]', Further, he proposed to establish a Native

³ HRA, 1, 7, p.617.

⁴ HRA, 1, 9, p.443-444.

⁵ See above, Chapter 12, p.319. Bushrangers skirmishing with 73rd's patrols.

⁶ HRA, 1, 8, p.148. Macquarie to Bathurst.

⁷ *Colonial Secretary Papers* (henceforth CSP), SRNSW, reel 6044, 4/1730, pp.218-219. Macquarie to J Warbey and J Jackson of 22 July 1814. For list of participating settlers and Aboriginal guides, p.231. Presumably the sortie was unsuccessful, no report of results have been noted in any primary source.

⁸ HRA, 1, 8, pp.250-251.

Institute for Aboriginal children at Parramatta as 'an Experiment towards the Civilization of these Natives'.⁹ In 1815, Macquarie made few references to Aborigines in his dispatches to London. His longest comments related to having met natives on his visit to Bathurst, noting they were 'perfectly harmless and Inoffensive, and not at all Warlike'.¹⁰ Otherwise, he only made a passing reference to starting the proposed Native Institute at Parramatta and settling Aborigines on a small Farm near Sydney Cove on the northern shore.¹¹

Unfortunately Macquarie's hopes for a peaceful coexistence between the expanding white settlement and threatened blacks were not realised and clashes occurred.¹² In December 1815, the Colonial Secretary wrote that the governor regretted:-

that an Outrageous attack has been made ... by a large party of Natives, on huts of Your [Blaxland's] Government Men which it appears they have plundered all they [the huts] Contained, two men and a Woman narrowly escaped with their lives.¹³

By March 1816, Macquarie reported to London that he could no longer 'have forgiven or Overlooked Many of their Occasional Acts of Violence and Atrocity ... on the defenceless remote Settlers' by the Aborigines. He advised that he already had small parties of troops on protective duties in threatened areas. These measures were inadequate. Therefore, Macquarie decided to conduct a widespread punitive expedition to protect settlers who were suffering 'outrages ... on and near the Banks of the Rivers Nepean, Grose and Hawkesbury'.¹⁴ The troops detailed for this operation were the flank companies of the 46th Regiment, the Light Company commanded by Captain Shaw and Captain Wallis' Grenadier Company.¹⁵ These two companies of selected men being the best troops in an infantry line battalion.

⁹ HRA, 1, 7, p.313, for peace and tranquillity and pp.369-373 for details of Native Institute.

¹⁰ HRA, 1, 7, pp.609-610. Macquarie to Bathurst of June 1815.

¹¹ HRA, 1, 7, pp.466-467. Dispatch of March 1815.

¹² There is a parallel here to the "Black War" that developed from the mid-1820's in Van Diemen's Land, despite Lieutenant-Governor Arthur's sympathy for the Tasmanian natives. A similar problem to that faced by Macquarie in 1816.

¹³ CSP, SRNSW, reel 6004, 4/3994, p.298. Campbell to Blaxland of 29 December 1815.

¹⁴ CSP, SRNSW, reel 6045, 4/1704, p.151.

¹⁵ CSP, SRNSW, reel 6045, 4/1735, p.40 for Wallis 'with the Grenadiers'.

Macquarie issued written orders on 9 April 1816 to various detachment commanders, for a coordinated operation to commence next day (Figure 26).¹⁶ His operational aim as stated to the senior officer, Captain Shaw, was as follows 'The great objects in view being to Punish the guilty with as little injury as possible to the innocent.' Shaw was directed to observe "Secrecy ... so as if possible to surprise [hostile Aborigines] ... in their lurking places'.¹⁷ Both Shaw and Wallis were to have a mounted trooper attached to 'convey intelligence fast' and were supplied with the names of the wanted Aborigines as well as those who were to act as native guides.¹⁸ Macquarie's instructions stressed that:-

on falling in with the Natives, either in Bodies or Singly, they are to be called on by your friendly Native Guides, to surrender ... If they refuse ... [or] make the least Show of resistance, or attempt to run away ... you will fire upon and Compell [sic] them to surrender. ... Such Natives as happen to be killed ... if grown up Men, are to be hanged up on Trees in Conspicuous Situations, to Strike the Survivors with the greater terror ... You will use every possible precaution to save the lives of the Native Women and Children, but taking as many of them as you can Prisoners.'¹⁹

Amongst other detail, Macquarie pointed out that the 'Five Island Natives' were not involved in any murders or attacks initiated by the 'Cow Pasture and Mountain Natives'. Therefore, 'I do not wish them [the Five Island Aborigines] to be molested or injured in any way whatsoever'.²⁰

While Macquarie enjoined his troops to strike terror into the hostile Aborigines, he also specifically ordered that mercy should be shown to all native women and children as well as to non-belligerent tribes. Regrettably, this amounted to almost contradictory orders when applied in the heat of a clash. Additionally, should bushcraft wise hostile natives be encountered, as soon as a friendly guide

¹⁶ CSP, SRNSW, reel 6045, 4/1734, pp.151-168. Macquarie to Captain Shaw. 4/1735, to Captain Wallis, pp.7-13 and Lieutenant Dawe, pp.1-6. All of 9 April 1816. Macquarie issued orders for subsidiary operations; to Sergeant Murphy, 4/1798, pp.35-37 of 22 April 1816 (for clearing areas to Cox's River and setting up a post to protect communications to Bathurst) and to Sergeant Broadfoot? (4/1735, pp.44-48 of 8 May 1816) to proceed to the 'Bringelly District ... to attack [unnamed natives] ... and to compell [sic] them by Force of Arms to surrender'. J Connor, *The Australian Frontier Wars 1788-1838*, Sydney, p.50, for map of operations, Figure 26.

¹⁷ CSP, SRNSW, reel 6045, 4/1732, pp.153-154.

¹⁸ CSP, SRNSW, reel 6065, 4/1798, pp.44-48.

¹⁹ CSP, SRNSW, reel 6045, 4/1734, pp.157-158.

²⁰ CSP, SRNSW, reel 6045, 4/1734, p.163.

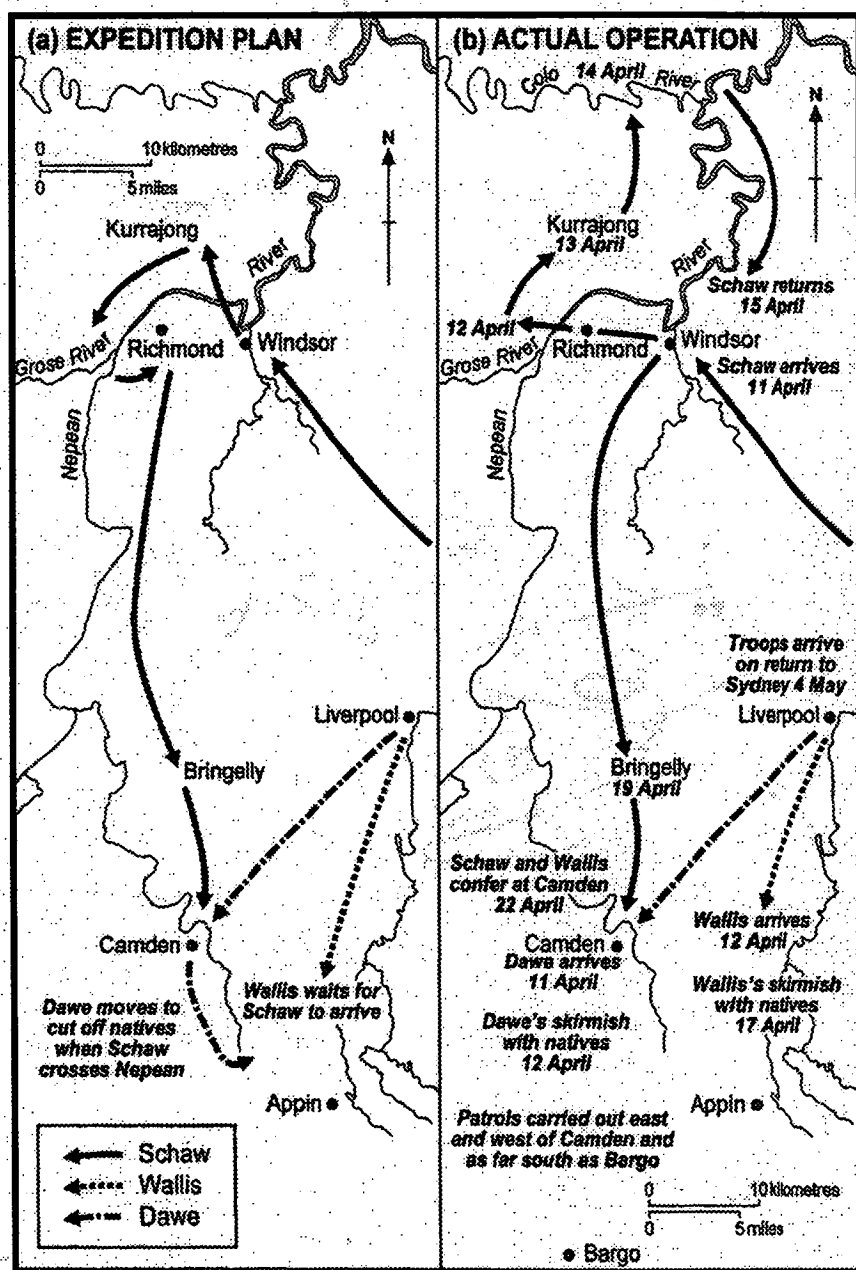


Figure 26: Operation ordered by Macquarie against Aborigines, April 1816

called on them to surrender, they would rapidly disappear and provide few, if any, targets upon which the troops could fire. Common sense would indicate that this surrender call would not be observed if soldiers made contact with hostile Aborigines, especially in the confusion of a night contact, as indeed happened on the night of 17/18 April 1816. Clashes at night would have had to have been anticipated, as a common way of locating Aborigines was to search for their camp fires from high ground at dusk,²¹. But in favourable circumstances, contacts were peacefully made with Aborigines. Lieutenant Parker later reported that on 26 April, his detachment built huts, and at first the local natives were alarmed, but because of 'our pacific Intentions, [they] declared themselves at Enmity with the Mountain Blacks'.²² Bearing in mind Macquarie's experience in fighting frontier wars in India, and how his orders were framed to detachment commanders, he was obviously aware that his blending of terror and humanitarianism would be hard for soldiers to apply in the confusion of a contact with hostile natives.

In a proclamation made shortly after the return of the troops, Macquarie stated that detachments were ordered to 'drive away' hostile Aborigines from the remote settlements and take as many prisoners as possible.²³ Subsequently, in the first paragraph of his dispatch to London reporting the operation, Macquarie wrote that the troops were to 'apprehend or destroy' the Aborigines. This was modified in the dispatch's second paragraph in that he gave instructions to 'take as many Prisoners as possible'. This was no doubt to soften, in the same paragraph, the stark report of the operation's only significant contact, when Captain Wallis' detachment, surprised a native camp at night, killing fourteen, of whom Wallis reported seven 'met their fate by rushing in despair over the precipice' on which they were camped. The troops only captured two women and three children. Ominously, no Aboriginal males, particularly wounded, injured or concussed were reported captured. Macquarie did concede that 'some few innocent Men Women and Children may have fallen'. J Connor notes that afterwards, the bodies of two

²¹ CSP, SRNSW, reel 6045, 4/1735, p.38. For example: on Sunday 21 April, Shaw sent 'Lieut Parker to the heights at Sunset to look out for fires'. Post-operational report by Captain Shaw.

²² CSP, SRNSW, reel 6045, 4/1735, p.60. Post-operational report by Lieutenant Parker.

²³ HRA, I, 9, p.142.

named male Aborigines were recovered 'from the creek and hung up' nearby.²⁴ Nevertheless, Macquarie confirmed that this 'painful Duty was Conducted ... perfectly in Conformity to the instructions I had furnished them.'²⁵ This attack which, to this writer, has the hallmarks of an action which became a massacre, enforced Macquarie's 'painful Duty', to create maximum terror amongst the Aborigines.

As a prelude to this clash, Wallis' detachment was led to the site of an Aboriginal camp by a settler who earlier saw natives' fires burning. Their dogs gave warning of the approaching troops, who were however led directly onto the camp by the cry of a child. Pushing 'through a thick brush terrain', the soldiers attacked the Aborigines who fled from their steep cliff top camp, with a number jumping off this cliff which was located near a deep rocky creek. As the attack took place in 'moonlight [with] the grey dawn of morn appearing', the officers and non-commissioned officers should have had sufficient vision to enable them to exercise a greater degree of troop control than would be possible on a dark night. Despite this, 'fourteen dead bodies were counted in different locations', but no immobilised wounded or injured were reported. In his post-operational report to Macquarie, Wallis stated, no doubt correctly, that 'I ordered my men to make as many prisoners as possible, and to be careful in sparing and saving the women and children'.²⁶ But it would appear that with the troops obviously weary after a long night march, then suddenly engaged in action, moderation did not prevail, only two women and three children being taken prisoner.

Following the April 1816 operation, Macquarie issued a long and legalistic proclamation, presumably designed to satisfy London about his concern for the Aborigines' welfare. Also, it gave settlers legal protection allowing the Aborigines to be 'driven away by Force of Arms by the Settlers themselves'. The Aborigines knowledge of the proclamation's detail was probably minimal.²⁷ Macquarie, forever

²⁴ J Connor, *Frontier Wars*, p.51. HRA, 1, 9, p.140, detail including casualties.

²⁵ HRA, 1, 9, pp.139-140. Macquarie to Bathurst of June 1816.

²⁶ CSP, SRNSW, reel 6045, 4/1735, pp.55-56. Wallis' post-operational report of 9 May 1816.

²⁷ HRA, 1, 9, pp.141-145, for proclamation, quotation p.145.

optimistic in his endeavours to stabilise security along the borders of settlement, and also to present London with the impression of a well ordered colony, in April 1817, reported:-

the Measures I had then and have Subsequently adopted have been attended with the desired Effect, and that all Hostility on both Sides has long since Ceased; the black Natives living now peaceably and quietly in every part of the Colony, Unmolested by the White Inhabitants.²⁸

Although the use of Aboriginal trackers was not mentioned in Macquarie's dispatch, this was possibly the first time that Aboriginal guides were publicly honoured for working with the security forces against other Aborigines. WC Wentworth, in his book published in 1819, quoted an article from the *Sydney Gazette* of 4 January 1817, referring to Macquarie calling the Aboriginal tribes together, at Parramatta in December 1816. In this, it was recorded that he:-

afterwards conferred badges of merit on some [Aboriginal] individuals, in acknowledgement of their steady and loyal conduct in the assistance they rendered the military party, when lately sent out in pursuit of the refractory natives to the west and south of the Nepean river.²⁹

But, as noted by Connor, Aboriginal guides were used as early as 1805, when 'New South Wales Corps detachments were given native guides'.³⁰

Ritchie suggests that some actions by Macquarie between 1815 and 1818, including those he ordered against the Aborigines in 1816, were irrational as 'Power had partly corrupted him; his opponents had done much to undermine his balance; sickness [effects of syphilis] had also contributed to his decline'.³¹ However, if the harsh internal security operations ordered by other governors are considered, Ritchie's criticisms are possibly too severe. Phillip's two punitive

²⁸ HRA, I, 9, p.342. To Bathurst.

²⁹ WC Wentworth, *Statistical, Historical, and Political Description of The Colony of New South Wales and Its dependent Settlements in Van Diemen's Land*, London, 1819, Adelaide facsimile edition 1979, p.20.

³⁰ J Connor, *Frontier Wars*, p.48.

³¹ J Ritchie, *Lachlan Macquarie*, p.152.

raids,³² and Arthur's "Black Line" of 1830 in Van Diemen's Land,³³ also had their critics, but never was it suggested that these governors were corrupted by power or unstable in any way. While Macquarie's reprisals are retrospectively considered brutal, judged by contemporary standards, they were an acceptable response. Indeed, nine years after Macquarie's 1816 operation, Bathurst directed the then governor, Lieutenant General Darling:-

respecting the manner, in which the Native Inhabitants are to be treated when making hostile incursions for the purpose of Plunder, ... it is to be your duty when such disturbances cannot be prevented or allayed by less vigorous measures, to oppose force by force, and repel such Aggressions in the same manner, as if they proceeded from subjects of any accredited [enemy] State.³⁴

A later series of incidents concerning Aborigines was related by Louis Freycinet, commanding the French ship *Uranie*, which visited Sydney in November/December 1819. He wrote of his officers who encountered Aborigines while crossing the Blue Mountains, where they met an old man, Karadra, a tribal chief. William Lawson who accompanied them stated that Karadra was 'dangerous to the English, who died in considerable numbers at his hands, and yet nobody had been able to catch him in the act.' Nevertheless, Karadra had helped the British fight 'primitive peoples of the interior', when they approached the Nepean, or warned the English when he was not strong enough to turn them back, also he acted 'as a guide for English troops when enemy tribes spread across the countryside to plunder it.'³⁵ Possibly Karadra had mixed motives which could explain his contradictory behaviour; allying himself with the British when threatened by strong hostile tribal raids, or attacking the whites when provoked or suitable targets presented themselves.

By 1817 Macquarie was sanguine about the Aboriginal situation, but he was

³² See above, Chapter 3. pp.65-67.

³³ JF McMahon, 'The British Army: Its Role in Counter-insurgency in the Black War in Van Diemen's Land', *Tasmanian Historical Studies*, Vol.5.1, 1995-1996, pp.60-61. For brief background, when during October/November 1830, about 2000 soldiers and armed civilians, attempted to sweep insurgent Aboriginal tribes into Tasman Peninsula.

³⁴ HRA, 1, 12, p.21. Bathurst to Darling of July 1825.

³⁵ L De Freycinet, *Reflections on New South Wales 1788-1839*, translated T Cullity, Potts Point, 2001, p.22.

becoming increasingly concerned about the number of convicts absconding.

Bushranging was a problem, especially in Van Diemen's Land, where as early as 1809, Bligh reported that 'about Sixty, and some of them well armed, are now in the Woods'.³⁶ L Robson believed that arming convicts to hunt kangaroo to feed the hungry settlers, was the origin of the bushranger menace. From this evolved a 'sub-culture ... of those who found a hunting and wandering life to their taste'³⁷ These men formed associations with non-outlaws who acted as receivers of kangaroo flesh and stolen mutton, and who in turn supplied the bushrangers with ammunition, clothing and spirits. Collins' threats to punish the receivers were fruitless, because the colony needed food, and the receivers were profiting. As a result:-

A whole industry sprung up ... aided by the fact that many of the convicts in the bush were twice-convicted men who preferred almost anything to further punishments ... As settlement slowly extended, the stock-keepers and Crown servants [convicts] on the edges of the bush ... became more hand-in-glove with the outlaws'.³⁸

In 1812, Macquarie called on the commandants of Hobart Town and Port Dalrymple in Van Diemen's Land to supply names of absconders for inclusion in a proclamation to induce bushrangers to surrender, or alternatively, be hunted down.³⁹ This was apparently his initial step in preparing his proclamation issued in 1814, the year in which the under strength 46th Regiment, gradually assumed responsibility for internal security in the colony. Macquarie expressed concern to London about bushrangers, particularly around Port Dalrymple. Surprisingly, the leaders were 'two persons, who lately held official and creditable Situations under this Government, namely Peter Mills, late Acting Deputy Surveyor of Lands, and George Williams, lately Acting deputy Commissary of Provisions at Port

³⁶ HRA, I, 7, p.161. Bligh to Castlereagh of July 1809.

³⁷ L Robson, *A History of Tasmania, Vol.1, Van Diemen's Land from the Earliest Times to 1855*, Oxford, 1983, p.79.

³⁸ L Robson, *A History of Tasmania*, pp.80-81.

³⁹ HRA, 3, I, p.483. Macquarie to Geils of June 1812.

Dalrymple'.⁴⁰ Both were known to Macquarie, and Mills had worked with the governor during Macquarie's tour of the Port Dalrymple area, accompanying him on some exploratory trips in the Tamar region. In his journal entry for Thursday, 12 December 1811, Macquarie recorded that 'Dr. & Mrs. Mountgarrat and Mr. & Mrs. Mills dined with us this day and also the officers of the Detachment'.⁴¹ That Mills and Williams should fall so far from grace is unusual, although it was reported that both 'became embarrassed financially, and, to escape their creditors, joined the bushrangers'.⁴²

Finally, when Macquarie issued his proclamation on 28 May 1814, both Mills and Williams, together with twenty-seven other named bushrangers, including Michael Howe, were offered a pardon, provided they surrendered by 1 December and had not committed 'the Crime of Wilful Murder'.⁴³ The lieutenant-governor of Van Diemen's Land, Lieutenant Colonel Thomas Davey, who first came to the colony as a lieutenant with the marine detachment of the First Fleet, considered Macquarie's proclamation unfortunate. Davey wrote in a dispatch:-

a latitude was given [in Macquarie's proclamation] for the Commission of crime for no less a period than six Months, and which I cannot help ascribing as the great cause of all the distress and difficulties, with which these Settlements have lately had to contend.⁴⁴

While Davey blamed Macquarie, Macquarie 'Attributed to the Want of an Efficient and Energetic Government in that Island' the need for Davey to later declare martial law.⁴⁵

⁴⁰ HRA, 1, 8, p.250. Macquarie to Goulburn of May 1814. HRNSW, 7, p.367, for Mills' appointment by Bligh at a salary of £91/5/0 per annum. HRA, 1, 8, p.126, for Macquarie advising London, in February 1814, that Williams was appointed, as recommended by Bathurst, and that a free passage to the colony would be available to Mrs Williams on request.

⁴¹ *Lachlan Macquarie Governor of New South Wales - Journals of his Tours in New South Wales and Van Diemen's Land 1810-1822*, Sydney, 1956, p.71, for dinner and pp.70-77 for occasional reference to Mills.

⁴² HRA, 3, 2, p.764, Commentary Note 42.

⁴³ HRA, 1, 8, pp.264-265, for proclamation. HRA, 3, 2, p.451-452, for Mills' escape after capture, aided by a soldier of the 46th. Both were recaptured. HRA, 1, 8, p.452, by October 1814, Lieutenant-Governor Davey had requested that Mills be shipped to Sydney, together with witnesses. HRA, 3, 2, p.568, Mills, and two other bushrangers from Van Diemen's Land, did not stand trial in Sydney as the judge-advocate considered there was inadequate evidence presented against them.

⁴⁴ HRA, 3, 2, 131. Davey to Bathurst of September 1815.

⁴⁵ HRA, 1, 8, p.555. Macquarie to Bathurst of June 1815.

The discord between Macquarie and Davey reflected in dispatches to the Secretary of State revealed a personality clash between the two men. Ritchie considers that with Macquarie unimpressed by Davey's record in Van Diemen's Land, he was 'Alarmed lest his subordinate bring his own administration into dispute'⁴⁶ Additionally, Macquarie's pique may have been increased by his nominee for the lieutenant-governorship of Van Diemen's Land being consistently overlooked. Macquarie, surprisingly, first nominated Lieutenant Colonel Foveaux in March 1810, before Foveaux returned to England to possibly face court martial charges connected with Bligh's illegal detention in the wake of the mutiny.⁴⁷ Macquarie again strongly recommended Foveaux in April 1810 (following Collins's death), in April 1814 (should Davey give cause to be 'remove[d]') and in March 1815 (should Davey be 'superseded or recalled').⁴⁸ Apparently Macquarie resented that his recommendations were ignored when Davey was appointed in preference to Foveaux, and from their first meetings in Sydney, Macquarie indicated his poor opinion of Davey. For example, Macquarie informed Bathurst he had to be 'more pointed and Strict in my Instructions' to Davey, noting that 'Davey should be tied down by Rules, and held Accountable *to me* [Macquarie's emphasis] for his Conduct and Measures in the immediate Administration of them'.⁴⁹ Two days later referring to these Instructions, Macquarie, based on a warning of Davey's character by Under Secretary Goulburn⁵⁰, stated:-

I shall use every possible precaution to prevent his [Davey] making any improper use of the authority He is invested with as Lieutenant Governor ... [and Macquarie had yet] to form any accurate Judgment of his Conduct or of the regularity in his Accounts.
But the moment I discover that He sanctions any peculation ... I shall take immediate measures to prevent a repetition thereof.⁵¹

This initial distrustful attitude was followed by several adverse reports to London including that of April 1814, reporting that Davey was 'dissipated in his Manners

⁴⁶ J Ritchie, *Lachlan Macquarie*, p.150.

⁴⁷ *HRA* 1, 7, p.222. See above, Chapter 12, pp.313-314, for early preferential treatment.

⁴⁸ References respectively: *HRA*, 1, 7, p.262, *HRA*, 1, 8, p.242 and p.460.

⁴⁹ *HRA*, 1, 7, p.709. Macquarie to Bathurst of June 1813.

⁵⁰ *ADB*, 1, p.289.

⁵¹ *HRA*, 1, 7, p.790. Macquarie to Under Secretary Goulburn of June 1813, requesting that Lord Bathurst be informed.

and Morals... [and] a very unfit man' to be lieutenant-governor.⁵² Again, in March 1815, he had 'an extraordinary degree of frivolity and low buffoonery in his Manners'.⁵³ As a result of this destructive onslaught, in April 1816, Bathurst directed that Davey resign. He was replaced by Lieutenant Colonel William Sorell, instead of Foveaux who Macquarie had preferred.⁵⁴ In November 1828, memories of this clash of personalities still lingered and were summarised by Lieutenant-Governor Arthur who, in a dispatch to London, wrote:-

from the unaccountable jealousy entertained by Governor Macquarie towards Van Diemen's Land, every measure appeared most directed to retard it's [sic] advancement, certainly nothing was done to hasten its prosperity.⁵⁵

Unfortunately for Macquarie, in March 1815, with few bushrangers surrendering, he had to accept that his proclamation of May 1814 had been unsuccessful. He therefore sent Instructions to Lieutenant-Governor Davey that more constables were to be appointed, armed, and together with small parties of soldiers, scour the bush. Also, consideration was to be given to offering rewards for capturing a bushranger. Macquarie wrote to London that 'the very Small Military Force' on the island since the departure of the 73rd, would not justify martial law being proclaimed. Nevertheless, he considered that 'I greatly fear this Banditti Can never be entirely extirpated by any other Means than by Enforcing Martial Law and Using of a Strong Military Power against them.'⁵⁶

Meanwhile, with increasing bushranger activity becoming 'outrageous and alarming', Davey published his own proclamation in March 1815, offering substantial rewards for information leading to the arrest of any bushranger. This included a pardon, and return to Britain, for any bushranger who betrayed his

⁵² HRA, 1, 8, p.242. Macquarie to Goulburn.

⁵³ HRA, 1, 8, p.458. Macquarie to Bathurst.

⁵⁴ HRA, 1, 9, pp.113-114. Bathurst to Macquarie.

⁵⁵ HRA, *Resumed Series* 3, 7, p.639. Arthur to Sir George Murray of November 1828. Also p.847, Commentary Note No.529.

⁵⁶ HRA, 1, 8, pp.465-466. Macquarie to Bathurst of March 1815.

fellows.⁵⁷ As with Macquarie's proclamation of May 1814, bushranger activity continued unabated. The Reverend Robert Knopwood recorded on Monday, 24 April 1815, that at New Norfolk:-

8 of the bushrangers had been there that morning and robbed several [sic] of the settlers ... [they] had wounded Jemott, Triffet, Obyrn [Oburn], Carlile [Carlisle], Murphy ... the same night Carlisle was dead and they did not expect that Oburn and Murphy would live.

Next day, 25 April 1815:-

At 10 all the officers, civil and military, and the gentlemen of the colony met and ... from the alarmed state of the colony, His Honor the Lieut Govnr found it necessary [to] proclaim martial law as a security to the inhabitants, which was accordingly done at Govmt. House before all the inhabitants.⁵⁸

Despite Macquarie's rejection of the option of martial law, in Davey's opinion this proclamation was necessary to overcome a serious legal problem in Van Diemen's Land, in that there was no Court of Criminal Jurisdiction in the island, therefore all major crime cases had to be referred to Sydney for trial. Commenting on this, RW Giblin noted that 'so great was the delay, expense and inconvenience caused by forwarding accused persons, accompanied by witnesses, that in 1815 and 1816 only two cases were sent to trial [at Sydney]'.⁵⁹ This was unacceptable to Davey who considered swift administration of justice was necessary for the 'effectual suppression' of bushrangers. Thus, he 'felt it my [Davey's] duty to proclaim Martial Law as the only alternative in my power to restore peace and tranquility [sic]'.⁶⁰ The resultant death sentence passed on bushranger, Hugh Burn, by a general court martial established under martial law, was carried out three days later, showing justice and retribution were swift.⁶¹ Of the six men sentenced to

⁵⁷ HRA, 1, 8, p.472. Davey to Macquarie of March 1815. For proclamation, pp.473-474.

⁵⁸ *The Diary of The Reverend Robert Knopwood 1803-1838*, ed. M Nicholls, Hobart, 1977, p.201. The second quotation has been amended from the published text, as one line of print was obviously out of sequence.

⁵⁹ RW Giblin, *The Early History of Tasmania, Vol.2, The Penal Settlement Era, 1804-28* Collins, Sorell and Arthur, Melbourne, 1939, p.126. However, these limited numbers are partly explainable due to martial law between April and October 1815, when criminal cases were dealt with in Van Diemen's Land.

⁶⁰ HRA, 3, 2, p.131.

⁶¹ HRA, 3, 2, pp.119-120, for proceedings of the court. *The Diary of The Reverend Robert Knopwood*, pp.207-208. Burn was court martialled on Monday 26 June 1815, and executed on 29 June. 'He died very hardened.'

death during the period of martial law, four were executed.⁶² Mr Justice Jeffery Bent commented to London that these men were 'illegally [executed] though perhaps deservedly'.⁶³ Commissioner Bigge agreed with Macquarie's 'rightly considered' opinion that Davey's legal power 'did not extend' to such a declaration. Nevertheless, he recognised that the want of a local criminal court was the 'principal justification' for Davey's action.⁶⁴ Finally, 'with the dreadful state owing to the bushrangers', martial law imposed an additional strain on the available troops, to the extent that Knopwood commented that in Hobart, the town was defended by patrols of inhabitants.⁶⁵

Bearing in mind unsuccessful measures already undertaken by Macquarie and Davey (who offered convict informers a 'Free Pardon and a Passage to his Native Country'⁶⁶), it would appear that "Mad Tom" Davey's declaration of martial law was best suited to the circumstances, even though taken against the advice of his Deputy Judge-Advocate. The final outcome was that Macquarie deplored Davey's action and ordered the proclamation be immediately annulled.⁶⁷ Once this was repealed by Macquarie's order in October 1815, the bushranger menace continued unabated. Finally, following Macquarie's demands that Davey be replaced, the latter was allowed to resign his appointment.⁶⁸ It was left to his replacement, Lieutenant-Governor Sorell, to continue to grapple with the problem.⁶⁹

While Macquarie was having problems with Davey, an outright feud developed between himself and many officers of the 46th. The bonds of friendship

⁶² HRA, 4, 1, pp.919-920, Commentary Note No.75. For execution numbers, p.920.

⁶³ HRA, 4, 1, p.168. Bent to Bathurst, November 1815.

⁶⁴ *Report of the Commissioner Of Inquiry Into The State Of The Colony of New South Wales. Ordered ... to be Printed, 19 June 1822, [The Bigge Report], Adelaide, 1966, p.110. ADB, 1, p.289, notes that 'Bigge later upheld the expediency of Davey's action'. However, except for noting Davey's legal justification, Bigge did not appear to support Davey's declaration.*

⁶⁵ *The Diary of The Reverend Robert Knopwood*, p.205. Diary entry of 19 May 1815.

⁶⁶ HRA, 1, 8, p.474. Subject to approval by 'the Governor in Chief'.

⁶⁷ HRA, 3, 2, p.126. Macquarie to Davey of September 1815.

⁶⁸ HRA, 1, 9, p.114. Bathurst to Macquarie, of April 1816, directing Davey be allowed to resign.

⁶⁹ HRA, 3, 2, p.194, for Sorell assuming the appointment in April 1817.

between Macquarie and Molle broke down to the extent that Macquarie wrote in 1817:-

the Rank and Title of Lieut. Governor seem more favourable to the Cherishing Principals of Opposition to the Measures of the Government and Governor than to the promoting the Public Service; *a jealousy of the power of a Superior* [Macquarie's emphasis]. ...On these Grounds, ... I do not hesitate to recommend that, when Colonel Molle the present Lieut. Governor shall be ordered hence with the 46th Regiment, that the office of Lieutenant-Governor be totally abolished⁷⁰

Major General Sir Thomas Brisbane, who succeeded Macquarie as governor on 1 December 1821, followed this up, writing to the War Office that 'the Lieutenant Governor should never be selected from amongst the Troops in the Colony, as His interest and that of the Government are at variance and prejudiced to the Service'.⁷¹ Both Macquarie and then Brisbane wanted to ensure that the civil power dominated that of the military.

Macquarie's disputation with the officers of the 46th developed in 1815 when he reprimanded a domineering officer, Captain Sanderson. The latter then formed a strong clique amongst the 46th's officers, who took every opportunity to belittle Macquarie's government,⁷² They extended their mess embargo on emancipated convicts, by refusing - without bothering to make any excuse - Macquarie's invitations to dine at Government House.⁷³ This unprofessional military embargo became part of a larger three sided wrangle between Molle and his officers on one hand, and the 46th's officers, sometimes including Molle, against Macquarie on the other. This extended disagreement was indicative of the poisoned atmosphere which developed in this isolated garrison. WC Wentworth summed this up:-

the civil and military officers with their families ... [are] not free from those divisions which are so prevalent in all small communities. Scandal appears to be the favourite amusement to which idlers resort to kill time and prevent ennui;⁷⁴

⁷⁰ HRA, 1, 9, p.393. Macquarie to Bathurst of May 1817.

⁷¹ HRA, 1, 10, p.610. Brisbane to Major General Sir H Taylor of January 1822. Commentary Note No.131, pp.833-834, for problems governors had with their lieutenant-governors, from Ross to Molle.

⁷² HRA, 1, 9, p.445.

⁷³ HRA, 1, 9, p.446.

⁷⁴ WC Wentworth, *Statistical, Historical, and Political*, p.28.

The result of this disputation was that Macquarie, in July 1817, submitted to 'the Prince Regent', through the Commander-in-Chief, a detailed report, with copies of voluminous correspondence generated by the dissension amongst the officers.⁷⁵ In this dispatch, Macquarie also requested the 'Speedy Removal' of the 46th Regiment from the colony.⁷⁶ This request proved unnecessary, as in the following month, the first transports entered Port Jackson carrying elements of the 48th (Northamptonshire) Regiment of Foot, to replace the 46th. The commanding officer of 48th, and in-coming lieutenant-governor, was Lieutenant Colonel James Erskine, who despite rumblings amongst some of his officers, ensured that Macquarie's emancipists were not excluded from the 48th's Officers' Mess.⁷⁷

Ritchie places the dispute between Macquarie and officers of the 46th within a wider social context. He notes that amongst others, conservatives such as Justice Jeffery Bent and his judge-advocate brother Ellis, together with Reverends S Marsden and B Vale and a crown solicitor, William Moore, did their utmost in the colony and in London, to undermine Macquarie because of his emancipist policies and unbending attitude to his opponents - 'his absolutism'.⁷⁸ This was a conflict of interest within a divided society, where the dictates of penal-type internal security was disputed by settlers opposing Macquarie's government. The conservative settlers, or 'exclusivist faction', led by Reverend Marsden and the Bent brothers, 'wished to exclude emancipists from all places of trust and consequence, as well as from respectable company'.⁷⁹ Ritchie illustrates this, noting that from December 1813, the rift between the Bents and Macquarie 'widened when Ellis's brother,

⁷⁵ HRA, 1, 9, pp.441-475.

⁷⁶ HRA, 1, 9, p.450. This was despite general knowledge that the 46th were shortly due to be replaced. First transports carrying part of the 48th Regiment arrived in August 1817, pp.487 and 709.

⁷⁷ It is not known whether the emancipists wanted to, or did, attend the 48th's Officers' Mess for social visits (as opposed to formal vice-regal occasions), but for Macquarie this represented a victory.

⁷⁸ J Ritchie, *Lachlan Macquarie*, p.161, for conservatives, and p.146 for 'absolutism'.

⁷⁹ J Ritchie, *Lachlan Macquarie*, p.224, for 'exclusivist faction'; pp.136-137, led by Marsden and the Bents; p.146, for exclusion of emancipists.

Jeffery, arrived [in the colony] and opposed the admission of ex-convict attorneys to his court'.⁸⁰ Commissioner Bigge, who was not backward in criticising Macquarie, reported that he 'manifested ... towards them [the emancipists] a larger share of attention than he has manifested towards those of the free class.' Again, Bigge noted 'Mr. Marsden's objections to the policy of appointing men who had been convicts to the magistracy ... [and that] Governor Macquarie ... could not tolerate any difference of opinion upon it'.⁸¹

Macquarie's bitter wrangles with those who opposed him, led to agitation in parliament against the governor, whose reputation was sullied by a variety of allegations, including his post-war lack of instigating fiscal responsibility in limiting expenditure in the colony, and also in being too lenient with convicts. The Vale affair, and a submission by Macquarie's opponents to parliament, described in Chapter 14, were typical of incidents which contributed to the tarnishing of Macquarie's reputation in London. His alleged faults were actively canvassed by Macquarie's detractors, and Bathurst, hoping 'to forestall attacks on his Office and his governor ... proposed an enquiry'.⁸² In making this submission, Bathurst noted the irritation of the settlers who 'feel a Repugnance to submit to ... the Rules applicable to a Penitentiary'.⁸³ His recommendation to the Home Secretary, Lord Sidmouth, was for the 'appointment of Commissioners ... to investigate all the Complaints which have been made both with respect to the Treatment of the Convicts and the General Administration of the Government'. The result was the establishment of the Bigge Inquiry, whose recommendations had far reaching effects on administration in the colony. Nevertheless, before this eventuated, Ellis and Jeffery Bent had been removed from their colonial appointments.⁸⁴

In Chapter 5, reference was made to Montague's article, in which he noted

⁸⁰ J Ritchie, *Lachlan Macquarie*, p.136.

⁸¹ *The Bigge Report*, pp.147 and 83 respectively.

⁸² J Ritchie, *Lachlan Macquarie*, p.156.

⁸³ HRA, 1, 10, pp.807-808, Commentary Note No.5. Letter Bathurst to Sidmouth of April 1817.

⁸⁴ HRA, 1, 9, p.111. Bathurst to Judge-Advocate Bent of April 1816. Ellis died in November 1815 before arrival of the letter. Justice Bent was separately dismissed, pp.112-113.

the relative youth and inexperience of the officers and men of the 46th and lower physical standard of its soldiers compared to those of the New South Wales Corps.⁸⁵ Several incidents in Van Diemen's Land, where inexperienced men of the 46th performed poorly (to be referred to later), contrasted unfavourably with their successors, the more seasoned 48th, of which, at the time of their arrival in the colony, half the corporals and privates were veterans. The 48th was a proud experienced unit, having had two battalions on active service from 1809 in the Peninsula campaign. The soldiers of these battalions were amalgamated after the slaughter of Albuera in May 1811. Thereafter, the First Battalion served throughout the campaign, up to and including the last battle, at Toulouse, in April 1814.⁸⁶ The post-war morale of the regiment was high, as indicated by their march to Cork to embark for New South Wales. Referring to this, the 48th's regimental history recalls 'during this march not a single desertion took place, which was quite exceptional at the time in the case of a unit ordered on foreign service.'⁸⁷ With this depth of experience amongst all ranks, especially during the earlier part of its tour of duty in the colony, the regiment's actions against bushrangers were often successful. Their task was made more difficult, as many bushrangers were service trained and experienced. From 1811, during the Peninsula War, an increasing number of convicted soldiers were sentenced to serve in the colony, or were transported. Also deserters who 'had not gone over to the enemy' were transferred to African or New South Wales based units. This was probably a comparatively small number, as there appears to be no historical documentation concerning this issue. However, where a soldier was sentenced to penal servitude, the 'penal settlement to which the convict was sent ... was almost invariably New South Wales.'⁸⁸ These trained and disaffected ex-service convicts, created a major problem which concerned Macquarie in the post-war period.

⁸⁵ RH Montague, 'The Men of the New South Wales Corps: a Comparison?', *JRAHS*, Vol.62, Pt.4, March 1977, *passim*.

⁸⁶ C Sargent, *The Colonial Garrison 1817-1824, The 48th Foot The Northamptonshire Regiment in the Colony of New South Wales*, Canberra, 1996, p.46, for number of veterans, pp.11-16 for Peninsula.

⁸⁷ R Gurney (Lt. Col), *History of The Northamptonshire Regiment 1724-1934*, Aldershot, 1935, extracts courtesy Museum of The Northamptonshire Regiment, p.187.

⁸⁸ C Oman, *Wellington's Army 1809-1814*, London, 1912, p.238.

Following the end of the Napoleonic wars in 1815, the rapid demobilisation of the navy and army found many thousands of ex-servicemen destitute, a discharged soldier of 71st Regiment, wrote in a letter of May 1818:-

These three months, I can find nothing to do. I am a burden on Jeanie and her husband. I wish I was a soldier again. I cannot even get labouring work. ... I have seen my folly. I would be useful, but can get nothing to do.⁸⁹

The regular army, which did not include the militia, shrunk from a war-time peak of 237,000 men at home and abroad to 64,426 at home by 1820.⁹⁰ With high discharge rates, there was an increase in numbers of convicts with previous military service sent to the colony after the war. Macquarie expressed concern about the many convicts 'trained to the Use of Arms as Soldiers and Sailors'.⁹¹ Additionally, the number of convict ex-servicemen was boosted by an increase in soldiers sentenced to transportation for 'Military offences', described by Robson as 'Insubordination; breach of the Articles of War'. For the period that overlaps this thesis, Robson's five per cent sample of convicts sent to the colony shows the number of military offenders as:-

1787-1789	-
1790-1799	-
1800-1809	4
1810-1819	13
1820-1829	12 ⁹²

Robson states that 'an *indication* [his emphasis] of true totals may be obtained by multiplying [these numbers] by twenty'. Therefore, the approximate total represented above is:-

$29 \times 20 = \text{about } 580 \text{ military offenders transported between } 1800 \text{ and } 1829.$

Of this number, approximately 318 were transported to Van Diemen's Land and

⁸⁹ '71st', 'A discharged soldier's farewell to his family, 1818', *Rank And File, The Common Soldier at Peace and War 1642-1914*, TH McGuffie compiler, London, 1964, p.400.

⁹⁰ C Barnett, *Britain and Her Army 1509-1970, A Military, Political and Social Survey*, Harmondsworth, Pelican 1974, pp.258, for wartime and p.278 for 1820.

⁹¹ HRA, 1, 10, p.184. Macquarie to Bathurst of July 1819.

⁹² LL Robson, *The Convict Settlers of Australia*, Carlton, 1976 reprint, p.179 and p.192, for extract from table. Interestingly, in the next 20 years, 1830-1849, there was a dramatic increase in these numbers.

The increase of ex-service convicts, plus military offenders transported to the colonies, posed a significant internal security risk, mainly, but not exclusively, in the post-war period. The notorious bushranger, Michael Howe, was so trained, having deserted from both the army and navy before being transported for highway robbery in 1812.⁹⁴ Also there were a few deserters from regiments in the colony who took to bushranging. As discussed later, Peter Geary, of the 73rd Regiment, is an example of a deserter who caused the security forces many problems before he was killed in June 1817.⁹⁵ After his death, Geary's gang 'was led by Septon, formerly a Soldier of the Rifle Corps', who must have been transported during the Napoleonic Wars, being already known as a bushranger in April 1815.⁹⁶ Macquarie noted that Captain McKenzie, 46th Regiment, reported 'several Desertions have taken place from ... the 73rd Regt. ... previous to their Embarkation at Hobart Town'.⁹⁷ Reviewing the problem of service trained convicts and deserters in the colony, Macquarie complained to Bathurst of 'the total Inadequacy of the present Force' at his disposal.⁹⁸

The relief of the 46th created a shortage in the number of troops available for duty, for apart from 250 men (made up of two companies in Van Diemen's Land and a half company at Newcastle), the regiment sailed with a strength in excess of '500 Rank and File'. Yet the strength of the incoming 48th was 'under 440 Rank and File, and out of that number only about 350 ... [are] fit for duty'. Therefore, Macquarie sought retrospective War Office approval for his action in retaining the

⁹³ LL Robson, *The Convict Settlers*, pp.176, for multiplying factor, and p.210 for total transported to each colony, converted to a percentage and applied to statistics under study.

⁹⁴ C Sargent, *The Colonial Garrison*, p.62.

⁹⁵ HRA, 3, 2, p.264. Sorell to Macquarie of July 1817, for killing of Geary: p.776, Commentary Note 103, for Sorell's proclamation of July 1817, which noted Geary deserted from the 73rd.

⁹⁶ HRA, 3, 2, p.274, for taking over leadership, and p.94 for inquest in April 1815, into a murder by bushrangers. On p.97, there is a reference to a bushranger who was 'the Fifer of the 73d Regt.'

⁹⁷ HRA, 3, 2, pp.446-447. Copies of McKenzie's first four dispatches to Macquarie are missing (p.446), so it is uncertain if Geary was listed amongst this group.

⁹⁸ HRA, 1, 10, p.184. Dispatch of July 1819.

outlying detachments of the 46th until the 48th were reinforced.⁹⁹ In Van Diemen's Land, the last company of the 46th continued to be severely stretched by constant patrols against bushrangers up until it was replaced in June 1818.¹⁰⁰

An incident involving ex-soldier turned bushranger Geary, emphasises the disadvantage young inexperienced soldiers of the 46th faced against desperate trained opponents. In May 1817, a patrol of a lieutenant and eight soldiers of the 46th, accompanied by a constable and 'Crown Servant [convict] who had been a soldier', surprised a party of eight bushrangers led by Geary. The bushrangers dropped their packs and hastily retired to the edge of a wood, here they rallied and a fire fight developed in which the lieutenant was wounded. With some indecision the military withdrew 'across the plain' - presumably a somewhat disordered retreat over open ground where they were exposed targets for the hidden bushrangers. The bushrangers followed the hastily departing soldiers, recovering their packs before quitting the area. Sorell, himself an experienced officer,¹⁰¹ considered that 'the faults and oversights, committed ... appear to have arisen more from want of steadiness and coolness, which usually fail in very young soldiers'.¹⁰²

In a further incident involving Geary's gang, Georgetown was seized and plundered by bushrangers in June 1817. The garrison of a lance-sergeant and five soldiers 'were surprised in their Hammocks and tied' while the stores were plundered and two boats stolen for an abortive attempt by the bushrangers to escape. The convict work party at Georgetown joined in the plundering, as their sole supervisor, Inspector of Works, William Leith, was himself imprisoned, under

⁹⁹ HRA, 1, 9, pp.487-488. Macquarie to Torrens of September 1817.

¹⁰⁰ C Sargent, *The Colonial Garrison*, pp. 60 and 62. The companies of the 46th were replaced by the 48th in Port Dalrymple and Hobart Town, in April and June 1818 respectively. The 46th's detachment at Newcastle was not relieved until December 1818, p.37.

¹⁰¹ ADB, 2, p.459, for details including active service in the West Indies in 1793 where he was wounded, also in North Holland in 1799 and in 'minor attacks on Spanish naval ports' in 1800. To his credit, as a major, Sorell was a member of the Light Brigade trained in England by Sir John Moore. Lieutenant Colonel Sorell proved his worth as a staff officer in the Cape of Good Hope from 1807 to 1811.

¹⁰² HRA, 3, 2, p.248. Sorell to Macquarie of May 1817. The officer was Lt Nunn, whose seniority in that rank dated from 7 September 1815, *Army List, June 1817*, no other bibliography, (courtesy of The Museum of The Northamptonshire Regiment), p.34.

trumped up charges, by the Commandant of Port Dalrymple, Brevet-Major James Stewart, 46th Regiment. Again Sorell attributed the incident to 'our Young Soldiers are not *knowing* [Sorell's emphasis] enough'. Sorell continued, the bushrangers 'Number is now thirteen, which requires such strong parties as are impracticable with the present force'. He commented that while Geary:-

believed himself proscribed from all chance of Mercy, he retains influence or even command sufficient to keep them [his gang] united ... Their perfect knowledge of the Country and habits of fatigue, temperance and caution render them a difficult Adversary. Could the present [leadership] be removed, who have acquired their experience by three years practise, I confidently feel that Bush Rangers as an Armed Band would not again appear in the Colony.¹⁰³

Despite the gloom cast by bushranger successes, shortly after the Georgetown raid, Geary was dead. The chain of disasters for the gang started in March 1817, when a patrol under Ensign Mahon, 46th Regiment, discovered three bushrangers in an ambush position. In a brisk action, two were killed and one wounded who escaped.¹⁰⁴ This escapee, Parker, unable to regain contact with the rest of Geary's gang, was captured in July 1817, although he had already made an offer to surrender. About the same time, two other gang members, separated after Georgetown, 'offered to give themselves up ... provided their lives were spared'. These two 'experienced Bush-Men', assured of mercy by Sorell, gave valuable information. This resulted in the gang, totalling eleven, being successfully attacked by a sergeant's patrol of eight from Captain Nairn's Company of the 46th based at Hobart Town. They captured three bushrangers, including Geary who was wounded and died that night. All the gang's knapsacks were also seized.¹⁰⁵ Vigorous patrolling by the 46th, had splintered off gang members, as a prelude to disaster for Geary.

¹⁰³ HRA, 3, 2, p.254. Sorrel to Macquarie of June 1817.

¹⁰⁴ HRA, 3, 2, pp.201 and 473-474 for details. Mahon was the senior ensign in 46th, with seniority dated 13 January 1814, *Army List, June 1817*, p.34.

¹⁰⁵ HRA, 3, 2, pp.264-265, for narrative in this paragraph. For Sorell's proclamation of 5 July 1817, offering large rewards for key members of Geary's gang, refer: *Commentary Note 103*, p.776. The reward for Geary was 'One hundred guineas'. No reference has been noted about any reward being paid to the soldiers. However, the sergeant was highly commended to his Commanding Officer, Lieutenant Colonel Molle, p.265.

While the companies of the 46th continued patrolling the bush in Van Diemen's Land, on the mainland of New South Wales, the incoming 48th Regiment carried out routine internal security duties, which continued for most of their tour of duty. The regiment's history records 'work carried out by the troops was that of police rather than soldiers; ... the maintenance of order amongst the convicts and the protection of the free settlers, not only against the convicts, but also against the aborigines.'¹⁰⁶ Typical duties included 'guards on convict working gangs, in pursuit of escaped convicts and bushrangers and at remote military outposts, such as at Cox's River on the Blue Mountains road ... to check the passes of travellers'.¹⁰⁷ In Sydney, eighty-six soldiers were routinely rostered daily for duty at the governor's residence, the dockyard, the barracks, Dawes Battery, Fort Phillip and the main town guard.¹⁰⁸ But despite Macquarie giving little indication in his dispatches that conditions were other than tranquil on the mainland, the troops were often engaged in anti-bushranger operations.

Sargent gives several examples of the 48th's operations in New South Wales. Corporal Marland and his four soldiers, in fifteen months at Cox's River, captured '25 bushrangers, including one group of thirteen who had attacked the post at Springwood'.¹⁰⁹ Marland, and two other soldiers were veterans of the Peninsula campaign which could account for their successes. On another occasion, twenty-two soldiers, under command of Lieutenant Close, unsuccessfully scoured the Cow Pastures (near today's Picton) for a 'Banditti of about 20 armed runaway convicts'.¹¹⁰ While this expedition was unsuccessful, Bigge refers to the assistance given to the military by the Aborigines of 'Port Hunter and Port Stephens [who have] become very active in retaking the fugitive convicts.'¹¹¹ So, although Macquarie did not draw attention to the fact in his dispatches, it is apparent that there was a considerable degree of lawlessness during the latter period of his

¹⁰⁶ R Gurney, *Northamptonshire Regiment*, p.187.

¹⁰⁷ C Sargent, *The Colonial Garrison*, p.30.

¹⁰⁸ C Sargent, *The Colonial Garrison*, p.32.

¹⁰⁹ C Sargent, *The Colonial Garrison*, pp.43-44.

¹¹⁰ C Sargent, *The Colonial Garrison*, p.42.

¹¹¹ *The Bigge Report*, p.117.

government from 1817 to 1821. This is confirmed in a letter written by an officer, to his father, regarding the two companies of the 48th stationed in Sydney:-

a very inadequate force ... Our men have very hard work; they are almost continually in the bush after runaway prisoners who are a great terror to the peaceable settlers¹¹²

Emphasis in the above paragraphs has been placed on internal security problems posed by bushrangers while little is officially recorded regarding mainland Aborigines creating disturbances after Macquarie's punitive expedition of April 1816. A rare exception was Macquarie's instructions to the commandant at Port Dalrymple that no special treatment should be given to a native sentenced to seven years transportation from Sydney.¹¹³ However, Surveyor-General Oxley reported to Macquarie on 'the ferocious treachery of the Natives along the Coast to the Northward [of New South Wales, and] ... having one man ... wounded by them'.¹¹⁴ Macquarie, now exhibiting a paternal attitude towards the Aborigines in and around the settled area, wrote to Bathurst:-

The rapid Increase of British Population, and the Consequent Occupation of the Lands formerly dwelt on by the Natives having driven these harmless Creatures to more remote Situations, It is my purpose to form the proposed [Aboriginal] Establishment in the distant fertile Tract of Country, lately discovered ...

I propose to Assign a proportion of Land to the Extent of ten thousand Acres for their permanent Benefit ... this Measure [is] ... One worthy of British Feelings to a harmless Race, who have been without a Struggle driven ... from their ancient places of Inhabitation.¹¹⁵

Whilst this statement proposed a means to redress the unfortunate plight of the Aborigines, there is no doubt from an internal security view point, with only limited troops available to Macquarie, such a conciliatory attitude also made good military sense.

¹¹² C Sargent, *The Colonial Garrison*, p.54. Quotation from *The Blomfield Letters*.

¹¹³ *HRA*, 3, 2, p.471. Macquarie to Stewart of July 1816.

¹¹⁴ *HRA*, 1, 10, p.31. Oxley to Macquarie of November 1818.

¹¹⁵ *HRA*, 1, 10, p.262, Macquarie to Bathurst of February 1820. This dispatch was written almost four years after his punitive military action of April 1816. Therefore, allowing for changed circumstances over this period, and changing opinions, to which all individuals and groups are subject, it is still argued that Ritchie's view of Macquarie's aberrant behaviour (referred to earlier in this chapter) is not valid in this instance.

In Van Diemen's Land, during the period of Macquarie's government, there was negligible trouble between whites and blacks involving the security forces. A typically minor incident was reported by Ensign Mahon that he had arrested one of 'three civilized Black Natives', who were armed and had committed 'a robbery on Mr. Beaumont's cart'.¹¹⁶ Statistically, this relatively peaceful situation is confirmed by B Plomley's extensive studies. He notes that in Van Diemen's Land in the first twenty years of white settlement, 'there were few attacks [on whites] each year, sometimes none at all, and the average rate between 1804 and 1823 is no more than 1.75 attacks per year'.¹¹⁷ Wentworth wrote of this period, when 'Two persons armed with muskets may traverse the island from one end to the other in the most perfect safety'.¹¹⁸ Whilst the number of individual Aboriginal deaths is not recorded by Plomley, the comparatively low level of violence against the settlers is indicated by only three Europeans and one Pacific Islander being speared to death by Aborigines between 1803 and 1823. Additionally, in the same period, two whites were wounded by spears.¹¹⁹ Nevertheless, as noted by LC Mickleborough, the apparent calm was changing, and Sorell 'recognised that the extension of and progressive occupation of land was likely to produce clashes' with the Aborigines.¹²⁰ Indeed this was a basic cause of the vicious "Black War" which developed from the mid-1820's.¹²¹

In Van Diemen's Land, while the Aborigines at the time were generally passive, the bushranger menace continued unabated. Sorell, who assumed the

¹¹⁶ HRA, 3, 2, p.474. Report of March 1817.

¹¹⁷ B Plomley, *The Tasmanian Aborigines*, Launceston, 1993, p.85.

¹¹⁸ WC Wentworth, *Statistical, Historical, and Political*, p.117. However, Wentworth also wrote of the lingering hate engendered by the Risdon Cove incident of 1803, when soldiers used a cannon to fire on a large group of Aborigines, pp.116-117.

¹¹⁹ NJB Plomley, *The Aboriginal / Settler Clash in Van Diemen's Land 1803-1831*, Launceston, 1992, pp.54-58. Table of 'Aboriginal/Settler clash : Incidents reported 1804-1831'. The first incident was 'The Risdon Affair' of 3 May 1804, in which no whites were casualties. Over this period, Plomley recorded a total of thirty-seven incidents.

¹²⁰ LC Mickleborough, 'Colonel William Sorell, Lieutenant-Governor of Van Diemen's Land 1817-1824: An Examination of his Convict System and Establishment of Free Settlement', Hobart, unpublished MA Thesis, University of Tasmania, 2002, p.189.

¹²¹ JF McMahon, 'The British Army and the Counter-Insurgency Campaign in Van Diemen's Land with Particular Reference to the Black Line', Hobart, unpublished MHum Thesis, University of Tasmania, 1995, *passim*.

appointment of lieutenant-governor in April 1817, during the worst of Geary's excesses, was obviously prepared to learn from bush wise members of the 46th. Looking towards the future, he wrote at length to Macquarie about anti-bushranger tactics, including continuation of disguised patrols, sanctioned by Davey and practised by the 46th. Ensign Mahon's party was wearing civilian clothes at the time they successfully contacted the group of bushrangers referred to earlier. Sorell advised that 'two parties (disguised) were constantly out' - apparently one from Port Dalrymple and the other from Hobart Town.¹²² An unfortunate sequel occurred in March 1821, when disguised 48th Regiment patrols from the north and south, failing to recognise each other, engaged in a fire fight in which a corporal was killed and several soldiers wounded.¹²³ Nevertheless, this scheme provided the military with a greater chance of moving undetected, particularly as sympathisers would warn bushrangers of any threat. Additionally, Sorell proposed encouragement to informers, such as Michael Howe, who had been in useful communication with Davey. Macquarie agreed with this proposal noting that 'Bush Rangers had numerous friends and abettors at Hobart Town ... [and that] Howe will be able to throw sufficient light on this subject'.¹²⁴

Concluding his dispatch, Sorell recommended the establishment of 'a permanent party or two on the [Hobart Town/Port Dalrymple] line of communication [which] will greatly check improper intercourse, robberies of Cattle and other Offences, and will give confidence to the quiet and honest settler.'¹²⁵ Macquarie agreed with this concept, suggesting four military posts at 'nearly equal Distances from ... Derwent to Port Dalrymple', when adequate troops were available.¹²⁶ During Macquarie's visit to Van Diemen's Land in 1821, he designated these sites and named them Perth, Campbell Town, Oatlands and

¹²² HRA, 3, 2, p.194. Sorell to Macquarie of May 1817.

¹²³ C Sargent, *The Colonial Garrison*, p.80.

¹²⁴ HRA, 3, 2, p.241. Macquarie to Sorell of May 1817.

¹²⁵ HRA, 3, 2, p.195. Also p.773, Commentary Note 85, for informers and Howe communicating with Davey. By September 1817, Howe had escaped from his nominal arrest and forfeited any hope for mercy, p.275. He was killed in October 1818 by a private of the 48th and a convict, p.363.

¹²⁶ HRA, 3, 2, p.269. Macquarie to Sorell of July 1817.

Brighton, all of which continue as townships today.¹²⁷ In a separate dispatch to Macquarie, of the same date, Sorell requested forty or fifty muskets for issue to 'Crown servants' [convicts] in an 'Emergency', and thirty reinforcements for the 46th, 'upon the success of which ... the reestablishment of order in the Interior mainly depends.'¹²⁸ This bundle of proposals indicates the careful consideration Sorell gave to measures intended to overcome the bushranger menace. Bigge's assessment of Sorell was 'measures adopted by Lieutenant-governor Sorell, immediately on his arrival at Hobart Town ... were of the most judicious kind.'¹²⁹

Bushrangers continued to be active, and by September 1817, Sorell lamented that 'there were twenty Men in the Bush'. One means of reducing the menace was considered in correspondence between Sorell and the Commanding Officer of the 46th, Lieutenant Colonel Molle. The latter had agreed to the transfer of an operationally experienced sergeant from the 46th to the incoming 48th. As a result, Sorell recommended to Macquarie that should two or four bush-wise soldiers consent to a transfer to the 48th, it would provide the detachments of the 48th 'with some few Leaders and Guides perfectly acquainted with the Country and the Bush-ranging System ... [making the] new Troops speedily efficient'.¹³⁰ Subsequently, Sorell submitted the names of two suitable lance corporals with less than twelve months to serve.¹³¹

While Sorell was pleased to retain the services of two soldiers of the 46th, he would have been gladdened to be rid of Stewart's company from Port Dalrymple, which was replaced by Major Cimitiere's company of the 48th in April 1818.¹³² It will be recalled that Stewart was commandant at Port Dalrymple when Geary and his bushrangers captured the detachment at Georgetown. During his command,

¹²⁷ HRA, 1, 10, p.504, for towns.

¹²⁸ HRA, 3, 2, p.198.

¹²⁹ *The Bigge Report*, p.109.

¹³⁰ HRA, 3, 2, p.275.

¹³¹ HRA, 3, 2, p.280. To Macquarie of October 1817.

¹³² HRA, 3, 2, p.316. Macquarie to Sorell of April 1818. *Commentary Note 122*, p.780, for details of Cimitiere's regimental service with the 48th. This only partly describes the extraordinary military career of this mercurial officer, also ADB, 1, pp.223-224.

discipline within his company deteriorated, as exemplified by murders committed by two of his soldiers, one at York Plains and the other at Launceston. In the latter case, Sorell believed that Stewart failed to forward evidence in order to 'screen the Man'.¹³³ Stewart also showed serious lack of judgment, such as wrongly arresting Ensign Mahon over a minor quibble, when Mahon was acting on Sorell's orders to pursue convicts who had stolen a boat, delaying the chase by three days.¹³⁴ Stewart's behaviour was such, that despite having returned to Sydney, Sorell preferred ten court martial charges against him.¹³⁵ This lack of discipline and sound command around the Tamar River area detracted from the efficiency of the company to perform its internal security duties. Meanwhile, Captain Nairn's better disciplined company of the 46th, at Hobart Town, had one soldier found guilty of manslaughter as a result of a violent quarrel with a civilian.¹³⁶ Macquarie's view of the situation was:-

It is ... much to be regretted that the Soldiery at Port Dalrymple more especially, and in a recent instance even at the Derwent, should have manifested such a Spirit of licentiousness and insubordination. ... [This] can only be repressed by making some few dreadful examples of those most guilty, and the officers commanding the Detachments observing and enforcing a more strict and rigid Discipline in future.¹³⁷

It is probable that the company commanders of the 48th, who relieved the 46th in Van Diemen's Land, received a strong brief from Macquarie before their

¹³³ HRA, 3, 2, p.287. Sorell to Macquarie of November 1817.

¹³⁴ HRA, 3, 2, pp.322-323. Sorell to Macquarie of May 1818.

¹³⁵ HRA, 3, 2, pp.477-478. Macquarie to Stewart of June 1818. As Sorell and other witnesses would have been required to give evidence at a court martial in Sydney, with consequent interruption to government in Van Diemen's Land, the charges were not laid. Instead, Macquarie wrote to the Commander-in-Chief reporting Stewart's behaviour. Macquarie believed this would cause Stewart to be 'dismissed from His Majesty's Service', pp.325-326.

¹³⁶ HRA, 3, 2, p.289. Sorell to Macquarie of December 1817. Despite this incident, Sorell did not fault this company whose 'services have been most useful'.

¹³⁷ HRA, 3, 2, p.292. Macquarie to Sorell of January 1818. This statement is not seen as an example of Arthur's opinion of Macquarie's 'unaccountable jealousy ... towards Van Diemen's Land'. Rather, it is seen as consistent with a need to maintain discipline in distant outposts where there had been reports of problems, especially in Port Dalrymple.

departure from Sydney.¹³⁸ Undisciplined behaviour would detract from the image he presented in his dispatches to London, of a peaceful law abiding colony. For example, some five months after Michael Howe was killed, in March 1819, Macquarie wrote:-

Van Diemen's Land is at length restored to perfect Peace and Tranquility [sic] by the Vigorous, Energetic, and Judicious Measures of Lieut. Governor Sorell; by which their Leader, or Chief, Michael Howe, and the whole of the ferocious Banditti of Runaway Convicts, that so long Infected the Settlements [Hobart Town and Port Dalrymple areas] ... have either been taken or Extirpated. In Consequence of which happy Change, the Settlers now Carry on their Agricultural and Grazing Concerns undisturbed¹³⁹

He had written in the same tone in December 1817, lauding Sorell's actions, noting 'The Banditti ... [which] Infect those Settlements and Commit various Sanguinary Acts ... have been almost entirely extirpated'¹⁴⁰

Despite Macquarie's continued optimistic statements, during his tour of Van Diemen's Land in 1821, he conceded that 'arising out of the System of Marauding and Plunder, which had been only partially subdued', firm action was required. Therefore, of twenty-six capitally convicted prisoners at Hobart Town, he ordered ten hanged. Shortly after, of thirteen at Port Dalrymple, nine were executed after it was 'mutually agreed between the Judge Advocate and Myself that it was highly expedient to make striking Examples amongst these reprobate Characters.'¹⁴¹ Macquarie noted in his journal on Saturday, 28 April 1821 'This morning the undermentioned criminals [their 10 names listed] ... were executed at Hobart Town'. Then, on Friday, 25 May, 'It rained all day ... I signed the warrants for the execution of nine [named] criminals ... the five former being directed to be executed

¹³⁸ HRA, 3, 2, p.333. Major Thomas Bell's company relieved the 46th's company at Hobart Town in June 1818. C Sargent, *The Colonial Garrison*, pp.10, 14-15, 148. Bell joined the 48th as an ensign in 1799 and in 1812, as a captain, was wounded at Badajoz during the Peninsula campaign. Fighting in the Pyrenees in 1813, After a bloody action Bell was awarded a Gold Medal after command of the 48th devolved on him during the engagement. Also, he was awarded the rank of brevet major for this distinguished service and a CB (Companion of the Order of the Bath), probably on four occasions, due to officer casualties, he commanded the 48th in action. In India in 1827, Lieutenant Colonel Bell was appointed to command the 48th.

¹³⁹ HRA, 1, 10, p.90. Macquarie to Bathurst.

¹⁴⁰ HRA, 1, 9, pp.717-718. Macquarie to Bathurst.

¹⁴¹ HRA, 1, 10, pp.507-508. Macquarie to Bathurst of July 1821. This is an extraordinary mixing of the executive and judicial functions.

on Wedy. the 30th inst. at Launceston, and the last four on Monday the 4th of June at George-Town'.¹⁴²

Apart from Macquarie's attempt to control lawlessness by threat of execution, Sorell had earlier visualised another means to maintain internal security on the island. He proposed that 'a small Settlement' be formed at the newly discovered Macquarie Harbour, where coal and huon pine could be obtained and 'as a Place of Banishment and Security for the Worse Description of Convicts'. In May 1818, Macquarie advised London he supported this proposal, and that the settlement be established 'as soon as practicable'.¹⁴³ Receiving no response, Sorell again wrote to Macquarie in June 1821 on this topic. Noting that due to 'the rapid encrease [sic] of the Convict Population' this establishment was 'most urgently required'.¹⁴⁴ Meanwhile, Sorell had discussed this proposal with Bigge who reported that Macquarie Harbour 'appeared... to possess some particular recommendations for a place of punishment'.¹⁴⁵ Thereafter, the latter advised London that he had authorised the founding of this settlement 'as a Place of Ultra Banishment and Punishment of Convicts'.¹⁴⁶

Provided expenses were minimised, Macquarie knew that Bathurst would not object to this proposal having been ordered by Bathurst in January 1819 to avoid 'ill considered Compassion for Convicts'. Bathurst intended that within the United Kingdom, transportation would be 'an effectual Punishment for the Prevention of Crime', being seen as 'an Object of real Terror to all Classes of the [British] Community'.¹⁴⁷ Nevertheless, while Macquarie saw the need for places of ultra punishment, there was a fundamental difference between Macquarie's vision of a grand future for the colony, and Bathurst's more immediate requirement for it to

¹⁴² *Lachlan Macquarie - Journals of his Tours*, pp.179 and 189.

¹⁴³ HRA, 1, 9, p.796. Macquarie to Bathurst.

¹⁴⁴ HRA, 1, 10, p.528.

¹⁴⁵ *The Bigge Report*, p.113.

¹⁴⁶ HRA, 1, 10, p.527. Macquarie to Bathurst of July 1821.

¹⁴⁷ HRA, 1, 10, p.7. Bathurst to Macquarie of January 1819. Quotations from Bigge's three Instructions of 6 January 1819, pp.4-11, copied to Macquarie. Caution to Bigge on control of expenditure, pp.6-7.

serve as a serious deterrent to crime in Britain. While Bathurst also appreciated the need to encourage the rule of law for free settlers,¹⁴⁸ he wanted New South Wales to again gain a reputation as a dreaded penal colony, such as when the 'Settlements were in their Infancy'.¹⁴⁹

Before he left England, Bigge was well aware of Bathurst's particular concern that the British public had:-

so little of Apprehension [of transportation] ... that numerous applications are made from those who are sentenced to Imprisonment for Minor Transgressions [pleading] that they may be allowed to participate in the Punishment to which the greatest Offenders are condemned.¹⁵⁰

Freycinet, who had the greatest regard for Macquarie and his administration, which was 'so fatherly and firm and replete with important and useful achievements', noted that it was said 'this worthy General had granted too many *tickets-of-leave*'.¹⁵¹ Possibly, the two large groups of convicts hanged during Macquarie's 1821 tour of Van Diemen's Land, reflected a tougher attitude by Macquarie, as demanded by Bathurst, considering that these nineteen convicts, hanged specifically on Macquarie's orders, were the only persons executed in Van Diemen's Land in 1821. This number contrasts markedly with the total of only thirty-three executions (including the nineteen in 1821) carried out during Sorell's seven years in office.¹⁵²

To tighten convict discipline, Macquarie had recognised the desirability of remote penal settlements as places of secondary punishment, before Bathurst (possibly influenced by the logic of Macquarie's dispatches) directed that in isolated areas:-

distinct Establishments exclusively for the Reception ... of Convicts ... [should be established to] effectually separate the Convict from the Free

¹⁴⁸ See below, Chapter 14, p.373-374, for vocal settlers and footnote 23, for Bathurst's quotation.

¹⁴⁹ HRA, 1, 10, p.5.

¹⁵⁰ HRA, 1, 10, pp.5-6.

¹⁵¹ L De Freycinet, *Reflections on New South Wales*, p.209, for 'fatherly and firm' and p.612, for '*tickets-of-leave*' (Freycinet's italics).

¹⁵² LC Mickleborough, 'Colonel William Sorell', p.265, for execution statistics. The lowest yearly total was one person hanged in 1819.

Population ... [and aid] classifying the Offenders, according to the Degrees of Crime¹⁵³

Meanwhile, before this directive was received, Oxley had discovered Port Macquarie, north of Newcastle, on the New South Wales coast. In July 1819, this was reported by Macquarie, as a suitable 'place of Banishment'. After approval by Bathurst, Macquarie ordered it be established in March 1821 as a penal outpost.¹⁵⁴ Despite this approval, Bigge did not favour this site as a place of secondary punishment being not 'sufficiently distant from other settlements to prevent the attempts at escape, that are already so frequent at Port Hunter'.¹⁵⁵

The establishments of Macquarie Harbour and Port Macquarie generally aided internal security by isolating hardened secondary offenders from colonists, both bond and free. Yet, this benefit also contributed to a different security problem. The establishment of additional guarded penal settlements, and other guard detachments in both Van Diemen's Land and New South Wales, further stretched, into "penny packets", the limited military garrison. WC Wentworth gives a contemporary view of this problem:-

The military force stationed in the colony ... form an effective body of about seven hundred firelocks. ... [They] furnish parties for the various towns and outposts of the extended territory of Port Jackson: so that very few troops remain at head quarters. ... Much anxiety is felt on this subject by the generality of the inhabitants, who have not forgotten the insurrection [of 1804] which took place when the whole population was not nearly so great as the present amount of the convicts, although the military force was of equal magnitude. That insurrection indeed was easily quelled; but the result of another, under existing circumstances, would in all probability, be very different.¹⁵⁶

The increased burden placed on the security forces is indicated by Fletcher's comment that between 1815 and 1821, due to the abysmal socio-economic conditions in post-war England, 'the number of convicts on the mainland increased

¹⁵³ HRA, 1, 10, p.6. HRA, 1, 9, p.796, for Macquarie's recommendations for establishment of Macquarie Harbour in May 1818, and see below, footnote 147, for Port Macquarie.

¹⁵⁴ HRA, 1, 10, p.178, for reporting discovery of Port Macquarie in July 1819; p.306, for Bathurst's dispatch of May 1820 authorising an establishment there; and pp.479-487, for Macquarie's dispatch of March 1821 and Instructions for establishment of the outpost.

¹⁵⁵ *The Bigge Report*, p.164.

¹⁵⁶ WC Wentworth, *Statistical, Historical, and Political*, pp.32-33.

by 14,081'.¹⁵⁷ This increase over five years almost equals the total of 15,648 convicts transported over the twenty-seven year period from 1787 to 1814.¹⁵⁸

Whilst the post-war increase in convicts transported was dramatic, at the same time there was a slight decrease in the size of the garrison, from 73rd Regiment's wartime strength of 813 other ranks, to post-war strengths as shown below:-

In 1817: the 46th Regiment's strength was approximately 750 other ranks,
In 1819: the 48th Regiment's strength was 776 other ranks.¹⁵⁹

One initiative of Macquarie's to 'separate the Convict from the Free Population' while conserving troop deployments, also came to fruition before he was advised of the forthcoming Bigge Commission. In March 1819, Macquarie advised London that in Sydney, the 'New Convict Barrack ... Surrounded by a very high Stone Wall ... [with the barracks built] to Contain between Five and Six hundred Men ... will be occupied in One Month'. Then in July, he reported:-

The beneficial effects, experienced by the Police ... [and] Community from this new Establishment ... not a tenth part of the former Night Robberies and Burglaries being now committed, since the Convicts have been lodged in the New Barracks.¹⁶⁰

AGL Shaw noted that at first the convict barracks housed 688 prisoners with the capacity increased to 800 in 1820. Additionally, he wrote of 'another smaller barrack [in Sydney, accommodating] 250, and another at Parramatta 150; another was building at Windsor, and there was another at Sydney for 150 juveniles. All this permitted closer discipline'.¹⁶¹

Convict barracks were well utilised and the *Sydney Gazettes* for 1817 (tabulated by Wentworth) noted seventy-three convictions in the criminal court for crimes which 'for the most part [were] of a heinous nature'. But, as Wentworth

¹⁵⁷ BH Fletcher, *Landed Enterprise and Penal Society A History of Farming and Grazing in New South Wales Before 1821*, Sydney, 1976, pp.160-161. Quotation from p.161, p.136 for 3,090 convict arrivals between 1810 and 1814.

¹⁵⁸ LL Robson, *The Convict Settlers*, pp.170-171. Based on statistics from both 'Tables (ii)' based on Bateson's research, which Robson considers reliable.

¹⁵⁹ HRA, 1, respectively Vol.8, p.163, Vol.9, p.487 and Vol.10, p.287, for strengths. Apparently, the reduced peace time establishment for the 48th, of 650 rank and file, referred to later, was never implemented because of Macquarie's, and later, Brisbane's protestations.

¹⁶⁰ HRA, 1, 10, p.96, for dispatch to Bathurst of March, and p.193 for that of July 1819.

¹⁶¹ AGL Shaw, *Convicts and the Colonies A Study of Penal Transportation from Great Britain and Ireland to Australia and other parts of the British Empire*, Carlton, reprinted 1978, p.81.

pointed out, only a fraction of persons charged passed through the criminal court that year with a total of approximately 10000 convicted by 'the criminal courts, by the benches of magistrates, by the superintendent of police, or by the district magistrates'.¹⁶²

One of Macquarie's major concerns during the latter part of his governorship was lack of troops. As a result of the run down of the British Army following the end of the Napoleonic Wars, Bathurst, in September 1818 advised there would be no increase in the garrison's strength, as requested by Macquarie. As a substitute, Bathurst suggested a militia be formed from the 'Free Population'.¹⁶³ In acknowledging Bathurst's dispatch, Macquarie, in July 1819, pointed out that the 48th Regiment's proposed peace-time establishment of 650 rank and file was 'totally inadequate to the wide Range of Duties required ... in this Country'. He had 'Serious Apprehension ... [should a] Demagogue ... light the Torch of Sedition'. Further, Macquarie stated that 'To give a reasonable Security for the good order and Peace of this Country, including Van Diemen's Land, ... a disposable Force of double the present Strength of the 48th Regt. is absolutely requisite.'¹⁶⁴

Meanwhile, Macquarie agreed with Bathurst that 'a Militia might serve a very valuable purpose ... [but] *one* [Macquarie's emphasis] far inferior to what is derivable from Soldiers of the Line'. Macquarie advocated that 'Cavalry will be Eminently Useful in the present Extension of the Population'. He went on to propose a colonial establishment of 443 infantry and 165 cavalry. This being subject to London's approval, and also supply of designated uniforms, equipment '(including Saddles etc. etc.)'.¹⁶⁵ There the matter apparently died.

Macquarie's representations of July 1819 regarding 'Soldiers of the Line', did have some effect. Almost a year after he signed his dispatch, the War and

¹⁶² WC Wentworth, *Statistical, Historical, and Political*, pp.230-235.

¹⁶³ HRA, 1, 9, p.837.

¹⁶⁴ HRA, 1, 10, p.184. Macquarie to Bathurst of July 1819.

¹⁶⁵ HRA, 1, 10, pp.185-187.

Colonial Office advised a small, but heartening, troop increase, 'for the Safety of the Settlement'. Bathurst wrote that included in the 'Army Estimates for the present Year [1820]', approval was given by the Lords of the Treasury for 'a Regiment of not less than One Thousand Rank and File' for the colony.¹⁶⁶ Indeed by 1821, the strength of the 48th was 81 rank and file, representing an improvement in forces available to Macquarie.¹⁶⁷ With the British Treasury struggling to reduce a massive war time national debt,¹⁶⁸ this was a small, but significant victory by the War and Colonial Office, forcing Treasury to act in support of internal security in a remote and relatively unproductive penal colony.¹⁶⁹

Meanwhile in London, Macquarie's designated successor, Major General Sir Thomas Brisbane, (who assumed office on 1 December 1821), had been studying Macquarie's dispatches and corresponding with the War and Colonial Office. In March 1821, he requested three artillery pieces, ammunition and associated stores, together with two instructors, be added to the colonial garrison. This was agreed, but apparently the two instructors were never posted to the colony.¹⁷⁰

Brisbane, before he left England, was also advised that the Rear Admiral Commanding the East Indies Station had received orders from the Admiralty 'that one of His Majesty's Ships should always be stationed on the Coast of New South Wales'. Further, this ship's commander was to 'communicate with the Governor of the British Colony for the general benefit of His Majesty's Service'. Similarly,

¹⁶⁶ HRA, 1, 10, p.315. Bathurst to Macquarie of July 1820.

¹⁶⁷ HRA, 1, 10, p.576. The increased strength of the 48th by November 1821 (not including other supernumerary troops in the colony) was more than offset by the arrival of a further 12,244 male convicts between 1820 and 1824, LL Robson, *The Convict Settlers*, pp.170-171.

¹⁶⁸ RM Hartwell, 'The Rising Standard of Living in England, 1800-1850', in *European Political History, 1815-1870, Aspects of Liberalism*, editor EC Black, New York, 1967, p.24. The national debt stood at a record figure of £33.9 million in 1815, reduced to £28.1 million by 1845.

¹⁶⁹ Apparently the Treasury approval advised by Bathurst to Macquarie in July 1820 (see above, footnote 166 refers), was rescinded in August 1821, as indicated by Governor Brisbane's objections of January 1822 (see below, footnote 172).

¹⁷⁰ HRA, 1, 10, p.830, Commentary Note 116, for Brisbane's request and p.497 for Under Secretary Goulburn's reply of April 1821. For non arrival of instructors, refer p.708, Brisbane to Bathurst of August 1822.

Brisbane was to communicate with the ship's commander in all cases where such communication may appear to be necessary 'for the Benefit of His Majesty's Service'.¹⁷¹ This was a loose arrangement with 'the general benefit of His Majesty's Service' being in danger of differing interpretations by an army governor and a naval commander.

Shortly after his arrival in Sydney, Brisbane was confronted with the same internal security problems that had beset Macquarie. In January 1822, he wrote to the War and Colonial Office, referring to Macquarie's dispatch that the garrison should consist of at least 1000 troops, and complained against the directive, of August 1821, that the 48th should be reduced to the peacetime establishment of regiments 'at Home'. He continued:-

'I hope ... I shall stand excused for suspending, for a time, the reduction of the Regiment here, as I could not consider myself responsible for the consequences, if any diminution of the Force took place.'

Brisbane followed up these strong words by recommending the disbanding of the 'Invalid Company'; that no regiment should be stationed in the colony for more than three years; the colonel of this regiment should not be the lieutenant-governor; and the garrison should be increased by a second regiment.¹⁷² By 1823, Brisbane had his second regiment, with the arrival of the 3rd (East Kent) Regiment (The Buffs). In the following year, the 48th was relieved by the 40th (Somersetshire) Regiment.¹⁷³

Brisbane and Macquarie also had a similar security problem attempting to control the bushranger menace. During his first month in office, Brisbane issued a proclamation offering pardon to 'Prisoners of the Crown, and Others, who have absconded ... where, as Bushrangers, they can maintain themselves by ... Pillage and Rapine.' Bushrangers guilty of murder were exempt from mercy.¹⁷⁴ That these were troubled times is illustrated by the dates when places of secondary punishment

¹⁷¹ HRA, 1, 10, p.498. Bathurst to Brisbane of May 1821.

¹⁷² HRA, 1, 10, pp.609-610. Brisbane to Major General Sir H Taylor, London. For Brisbane's refusal to accept responsibility if there was any 'diminution of the Force'.

¹⁷³ G Odgers, *Army Australia an Illustrated History*, Frenchs Forest, 1988, p.17.

¹⁷⁴ HRA, 1, 10, p.721. Brisbane assumed office on 1 December 1821, p.612.

were opened with agreement from London. It is more than coincidence that four major settlements were established over a short four year period. These were:- Port Macquarie 1821; Macquarie Harbour 1822; Redcliff, Moreton Bay, 1824; and Norfolk Island, reopened in 1825. These were needed to control and discipline serious re-offenders whose sentences were short of execution. This rapid development of penal establishments indicates a crisis in maintenance of order, of which bushranging was the major security problem.

In June 1824, Brisbane recommended to London that a 'Troop of Colonial Cavalry' be raised, with the aim of controlling Aborigines in the Bathurst area.¹⁷⁵ This was the genesis of the military's mounted police, often praised for their efficiency. In fact, while they were still in the process of being formed from officers and men of the 3rd East Kent's, a detachment was sent over the Blue Mountains to the Bathurst District to deal with a bushranger menace, and they 'effectually cleared that part of the Country of those desperate Characters.'¹⁷⁶

The dilemma of Brisbane's continuing struggle against the bushrangers was summed up by the Executive Council as:-

an evil, which has gradually increased for some time past and has reached an alarming height in this Colony. Repugnant as the Council feel to recommend a resort to the use of a Military force to repress Civil outrages, Yet they are convinced that, under the peculiar circumstances of the Colony at present, it offers the only means, which are likely to remedy the Evil complained of.¹⁷⁷

Unlike the Macquarie era, when no such body existed, this reference to the Executive Council, and their repugnance to employ the military, is indicative of the strengthened position of the civil over the military power.

In the wake of seven settlers being killed by Aborigines in the Bathurst region (which led to Brisbane's recommendation to raise a Colonial Cavalry force),

¹⁷⁵ HRA, I, 11, p.283.

¹⁷⁶ HRA, I, 12, p.85. Stewart to Bathurst of December 1825. Lieutenant Colonel William Stewart, Commander, 3rd Regiment of Foot, and lieutenant-governor, assumed administration of the colony on the departure of Brisbane in December 1825.

¹⁷⁷ HRA, I, 11, p.898. Council to Brisbane of September 1825.

Brisbane's immediate action in August 1824 was to declare martial law 'beyond the blue Mountains'.¹⁷⁸ Additionally, the garrison at Bathurst was increased to seventy-five men, divided into small parties, each under a magistrate.¹⁷⁹ These parties searched designated areas under a coordinated plan. The military effort was supplemented by a call for settlers 'to assist the magistrates'.¹⁸⁰ This show of force was sufficient to restore security in the area and four months later, in December 1824, Brisbane was able to issue another proclamation repealing martial law.¹⁸¹

Unlike Macquarie's earlier heavy handed punitive expedition against the Aborigines, Brisbane's declaration of martial law stressed:-

the Shedding of Blood is only just, when all other Means of Defence or of Peace are exhausted; that Cruelty is never Lawful; and that, when personal Attacks become necessary, the helpless Women and Children are to be spared.¹⁸²

After martial law ended, Brisbane was able to report to London that due to the 'prudence and moderation' of the local military commandant and the magistrates 'not one outrage was committed ... neither was a life sacrificed or even Blood spilt'.¹⁸³ Interestingly, this is one of the earliest occasions recorded in the history of Australia where the civil power, in the form of magistrates, was seen to be dominant over the military power.¹⁸⁴ This was a step forward in the rule of law in the Australian colonies, as normally under martial law, the army can act alone and not in aid of the civil power.¹⁸⁵

¹⁷⁸ HRA, 1, 11, p.283, and pp. 410-411; for proclamation of martial law.

¹⁷⁹ HRA, 1, 11, p.431. Brisbane to Bathurst of December 1824.

¹⁸⁰ HRA, 1, 11, p.411. MAGISTRATES in blocks in Brisbane's proclamation.

¹⁸¹ HRA, 1, 11, pp. 431-432.

¹⁸² HRA, 1, 11, p.411.

¹⁸³ HRA, 1, 11, p.431.

¹⁸⁴ Whilst it is appreciated that some full time duty and retired military officers were also appointed as magistrates, irrespective of this the trend towards domination of the colony by the civil power is unmistakable. The civil power was boosted from 1826 by being able to appoint magistrates from the increasing numbers of half-pay or retired naval and military officers, who, encouraged by the British government policy, became settlers.

¹⁸⁵ *Manual of Military Law*, London, 1914, p.4. 'In time ... of rebellion ... exceptional powers are often assumed by the Crown, acting usually (though by no means necessarily) through its military forces for the suppression of hostilities or the maintenance of good order within its territories (whether the United Kingdom or British possessions);'.

In retrospect, the era of Macquarie saw a profound change, resulting in the domination of the civil power over the military. When he assumed office, Macquarie took over the colony from a rebel military administration. By the time he returned to Britain, the military power was properly subservient to his government. Macquarie encouraged the emancipists to come forward to play an active role in the colony despite the vitriolic opposition of the officers of the 46th and conservative exclusionist forces in the colony led by Marsden and the Bent brothers. The resultant Bigge Inquiry recognised the need for constitutional reforms. When implemented, these were 'concerned with the legislative and judicial aspects of government rather than with the executive. [This] assured that the Governor should remain within the law.'¹⁸⁶ Finally, the Act of 1823 was 'precipitated' by Bigge's reports, which amongst other reforms, established a Legislative Council.¹⁸⁷ Accordingly, in the atmosphere of the primacy of the civil power over the military, constitutional reform commenced during the government of Macquarie's successor. Macquarie's concept of a proud emancipated colony, rather than a penal settlement, became more of a reality, while at the same time the settlers' demands to be governed by the laws of England, became an achievable goal. Nevertheless, Macquarie's successor, Brisbane, faced the same security problems as his predecessor: insufficient troops to control the convicts and problems with the Aborigines. But he took over an economically viable and politically stable colonial government, a tribute to Macquarie's place in Australian history.

¹⁸⁶ ACV Melbourne, *Early Constitutional Development in Australia, New South Wales 1788-1856, Queensland 1859-1922 (with Notes to 1963 by the Editor)*, ed. RB Joyce, St. Lucia, second ed. 1963, pp.88-89.

¹⁸⁷ ACV Melbourne, *Early Constitutional Development*, pp.88 and 98-99.

Chapter 14

External Security During Macquarie's Governorship

After Great Britain's victory at the Battle of Trafalgar in October 1805 which established her world-wide naval supremacy, the Royal Navy was better placed to more widely project British power.¹ In December 1810, the same year in which Macquarie became governor of New South Wales, British naval operations in the Indian Ocean resulted in the capture of both Mauritius (Ile de France) and Reunion Islands. The French loss of Mauritius denied their vessels a support base from which warships or privateers could attack British shipping in the Indian Ocean *en route* to New South Wales and India, or interfere with the 'country' trade to China.² As considered in Chapter 10, any wartime Napoleonic dream, or British colonial fear, that the French could establish a foothold in Australia or conduct a coastal raid was gone. Nevertheless, in August 1813, Bathurst advised Macquarie of a French plan to attack the 'Settlements under your Government'. This was based on unreliable intelligence from the Danish adventurer Jorgen Jorgenson, which 'led H.M's Government to refuse any Credit to the

¹ HRA, 3, 1, p.546. Illustrating the geographic isolation of the settlements in Australia, news of Trafalgar did not reach Hobart Town until mid-August 1806.

² DGE Hall, *A History of South-East Asia*, London, second ed. 1966, p.462; for development of British 'country' trade based on India, which weakened 'Dutch control over the trade of Malaya and Indonesia'. While Mauritius was of some value as a forward base for the French, desolate Reunion Island without a good anchorage, had little value.

information'.³ Replying to this secret dispatch in April 1814, and referring to Bathurst's cautionary advice of a 'sudden incursion or descent of the Enemy', Macquarie argued for the speedy augmentation of his existing military garrison.⁴ As this force was stretched to its limit on internal security duties, which was Macquarie's priority concern, he possibly used Bathurst's dispatch as another excuse to request urgently needed reinforcements.

While a major French threat could be discounted, there was always a risk from French warships or privateers operating in the Atlantic. In 1809, Ensign Huey, *en route* to the colony with the 73rd recorded that in the Bay of Biscay 'we were chased for 10 hours by a line of battleship and a frigate.'⁵ In June 1812, a new external security risk to the colony developed when the United States declared war against Great Britain, to defend America's right to freedom of the seas⁶. This chapter considers the effects the War of 1812 had on New South Wales (of which Van Diemen's Land was still part). It also covers perceived post war external security threats to the colony.

The nature of the threat to New South Wales posed by the War of 1812, was interdiction to the colony's maritime lines of communication with England, India and Pacific islands such as Hawaii. By mid-1814, over 800 British merchant

³ HRA, I, 8, p.72. Attached to the dispatch was a report by Jorgensen of the supposed French and American intentions against the colony (pp.73-77). Commentary Note 12, pp.653-656, for Jorgensen's career, prior to being sent to New South Wales as a convict, and a departmental paper on countering the reported French plan. When Bathurst signed his dispatch, Wellington was driving the French back across the Pyrenees, and Britain's continental allies were forcing the French to fight the defensive Leipzig Campaign. Following Napoleon's return to Paris from Russia in December 1812 to recruit new armies and stabilise his hold on Europe, any plan against New South Wales in 1813, appears fanciful. Jorgensen's revelations may have had their origin in Napoleon's unfulfilled directive of 1810, that a French squadron be fitted out for service in the Indian Ocean (see above, Chapter 10, p.262).

⁴ HRA, I, 8, p.241. Macquarie's reply of April 1814 to Bathurst's dispatch of August 1813.

⁵ A Huey (Ensign), *The Voyage of the 73rd of Foot*, photocopy of typed manuscript by courtesy Black Watch Museum; their reference: "BW Arch 0415. Typescript.", p.3.

⁶ H Richmond, *Statesmen and Sea Power*, Oxford, 1946, pp.244-248, for causes of the war. Richmond notes a contributing factor was the American desire to conquer Canada (p.247).

ships had been captured or destroyed on the high seas⁷, although limited impact was felt in the colony. Lieutenant-Governor Davey was amongst those inconvenienced, as some of his property was aboard the colonial vessel *Emu*, which was carrying female convicts, and was captured by an American privateer *Holkar* in the Atlantic in November 1812,⁸ Even after being forced to resign his office, Davey continued to negotiate to obtain a grant of additional land as restitution for this loss. While Davey bewailed the loss of his belongings, a far greater loss was felt by the predominately male population in the colony. It was 'a very great Disappointment ... [concerning] the Loss of the Number of Female Convicts ... for the Settlements on Van Diemen's Land', when these women were off loaded at the island of St. Vincent.⁹

In the Pacific, the American capture of a British whaler and its recapture by imprisoned British sailors, subsequently involved Macquarie's government. In July 1813, off the Galapagos Islands, *Seringapatam* was captured by the American warship *Essex*, the first American naval vessel to enter the Pacific.¹⁰

Seringapatam's British crew, together with other captured seamen, were imprisoned and forced to construct a fort on the Marquesas Islands, while the captured ship, moored off shore, was being converted to an armed raider by the Americans. Seizing the opportunity when only three American prize crew were on board, fourteen sailors including some of *Seringapatam*'s original crew, recaptured the ship and sailed her to the nearest British possession, Port Jackson. They were fortunate, as a few days sail from Port Jackson with her crew

⁷ RE and TN Dupuy, *The Collins Encyclopedia of Military History From 3500 B.C. to the Present*, London, 4th ed., 1993, p.879. No confirming reference has been found to substantiate this figure. But the authors mention that USS *Essex*, in seventeen months before being sunk herself, 'captured or destroy[ed] more that 40 merchantmen and whalers' in the Pacific, and USS *Wasp* whilst cruising after sinking HMS *Reindeer*, 'captured 13 merchantmen' (p.879).

⁸ HRA, 1, 7, p.700. Bathurst to Macquarie of April 1813. Also Commentary Note 188, p.830. For Davey's loss and reimbursement offers, HRA, 1, 9, pp.113 and 339.

⁹ HRA, 1, 7, p.728. Macquarie to Bathurst of June 1813. For off loading of female convicts, Commentary Note 188, p.830.

¹⁰ W Levi, *American-Australian Relations*, Minneapolis, 1947, p.17. *Essex*, during seventeen months cruising in the Pacific, wreaked havoc, especially against British whalers before being captured by HMS *Phoebe* in March 1814. For action with *Phoebe*, RE and TN Dupuy, *Military History From 3500 B.C.*, p.879.

'debilitated from constant duty and short of rations, they fell in with *Campbell Macquarie*, whose owner 'humanely furnished them such articles as they stood in need of', then escorted them to Sydney.¹¹ Lacking adequate skills to navigate *Seringapatam* to England, the crew had an experienced captain appointed in command of the ship, and in October 1814 *Macquarie* furnished a '*Licence as Registration*' to replace the original lost at the time of capture. This identified the vessel, validating the circumstances of capture and recapture, so that salvage rights could be determined in England.¹²

Despite the capture of vessels such as *Emu* and *Seringapatam*, as the colony was becoming increasingly self-supporting, this interdiction of sea communications was not as critical as it would have been earlier in the colony's history. Nevertheless, as American sealers and whalers had operated in colonial waters, there was a possible threat (which did not eventuate) that they could return to blockade, or conduct shore raids against scattered settlements in the colony. This had elsewhere occurred less than forty years before, in April 1778, when during the War of American Independence, John Paul Jones twice landed to attack places in the British Isles.¹³ Such fears were reinforced by information gained that American bases were now established on the Marquesas, which they had claimed,¹⁴ and also on the Sandwich and Society Islands. As Levi pointed out, this 'threatened to make this new American influence in the Pacific permanent'.¹⁵

Even though the war was concluded by the Treaty of Ghent in December 1814, the last naval action did not take place until March 1815.¹⁶ Likewise, a transport to New South Wales was captured after the war ended. This was the convict transport *Francis and Eliza* captured in the Atlantic by the privateer

¹¹ L Rose, *Richard Siddins of Port Jackson*, Canberra, 1984, pp.76-78. Also: *HRA*, 1, 8, p.351.

¹² *HRA*, 1, 8, pp.312-313 and pp.350-356.

¹³ LC Kleber, 'Jones Raids Britain', *History Today*, Vol. XIX, No.4, April 1969, pp.277-282.

As an indication of the impact of Jones' raids, Kleber, writing about the first raid (on Whitehaven), commented that 'Nothing like this had happened since a Dutch fleet under Admiral Ruyter captured and burned Sheerness in 1667', p.279.

¹⁴ See above, Chapter 10, p.261, footnote 84.

¹⁵ W Levi, *American-Australian Relations*, p.20.

¹⁶ RE and TN Dupuy, *Military History From 3500 B.C.*, p.880.

Warrior and released twenty-four hours later, having been stripped of armaments and many stores. She reached Port Jackson in August 1815. Despite several of the crew deserting to the American ship, and some seamen acting in a mutinous manner for much of the voyage, the ship's captain together with the naval surgeon in charge of the convicts, and a solicitor travelling as a passenger, praised the conduct of the convicts, even when the ship was in enemy hands. They commended the good behaviour of the convicts 'very Strongly' to Macquarie. As a consequence, he recommended, unsuccessfully, to London that he 'be Authorised to grant *Conditional Pardons to All the ... Convicts* [Macquarie's emphasis]' who came out in that transport¹⁷

A further war related incident, involving the American ship *Traveller*, occurred at Port Jackson after Sydney residents knew that the Treaty of Ghent had terminated the conflict. This incident was described by Macquarie as 'A Circumstance as Extraordinary as Unexpected'. *Traveller* was correctly cleared from Canton, and from the British view, had proper authority from the East India Company to trade with Australia. She arrived in Port Jackson in February 1816 and Macquarie was 'Pleased with the Prospect of a beneficial [trade being] ... renewed by this first Arrival of an American since the Treaty of Peace'. Using the 'Usual and Accustomed Form by Me to the Naval Officer', Macquarie granted authority for *Traveller's* goods to be landed for sale. As pointed out by Macquarie the 'Transaction had the fullest Publicity'. Shortly after issuing this authority, he departed for a tour of the interior. On his return he was surprised to learn that *Traveller*:-

Whilst in the Discharge of her Freightage at the Public Government Wharf, had ... been Seized as a lawful Prize ... and this Surprise was Not a little increased When informed that the Seizure had been made by the Reverend Benjamin Vale, One of the Assistant Chaplains, Supported and Abetted by W.H. Moore, One of the Solicitors lately sent out by Government¹⁸

¹⁷ HRA, 1, 9, pp. 55 and 57. Macquarie to Bathurst of March 1816 and Commentary Note No.11, p. 849: p.202, for Bathurst's recommendation to Home Office of January 1817 and pp.414-415 for Home Office decision, authorising Macquarie to only grant some concession on length of time to be served.

¹⁸ HRA, 1, 9, pp.42-43.

Macquarie had no legal advisor to consult regarding Vale's actions. Attorney-General Bent had died, and Macquarie was feuding with that man's brother, Justice Bent, who refused to give Macquarie one of only two sets of statutes sent out from England.¹⁹ Therefore, in clearing *Traveller* to trade, the governor based the legality of his actions on precedence. Previously forty-one American ships had been allowed these rights, with the majority granted by former naval governors who had expertise in this area.²⁰ On this basis of precedence, Macquarie dealt with Vale, who refused to apologise to Macquarie, and 'Attempted by Argument to Vindicate the Measure'. As Macquarie considered Vale's conduct 'so Glaringly Offensive', and that his position of authority had to be maintained, he ordered Vale into 'Military Arrest, [as] his [Vale's] Commission as Assistant Chaplain Specifically render[ed] him Amenable to Martial Law'.²¹ Subsequently, Vale was court martialled, and of four charges preferred, was found guilty of one, and guilty in part of a further two. Although sentenced to be 'Publicly [sic] and Severely reprimanded and Admonished', his sentence was carried out by Macquarie, privately rather than publicly.²²

While this unusual case, had external security overtones, its significance was the ultimate assistance it gave the conservative forces in the colony who were determined to undermine Macquarie. Whereas Phillip, in the penal colony from 1778 to 1792, may have escaped unscathed in court martialling a government commissioned chaplain, thirty-eight years later, in a developing colony, Macquarie did not. He was reprimanded by Bathurst, who stated that it was 'a matter of doubt whether Mr. Vale's Appointment might not be considered ... a Military Commission of Chaplain to His Majesty's Forces'. Further, Bathurst listed specific charges on which Vale could be court martialled should he be found to be a military chaplain. None of these had applied in Vale's case. Bathurst also

¹⁹ HRA, 1, 9, pp.43-44.

²⁰ HRA, 1, 9, p.43 and p.47 for list of forty-one vessels, of which thirty were inwards cleared before 1808, whilst naval officers were governors.

²¹ HRA, 1, 9, p.45.

²² HRA, 1, 9, p.48, for charges and pp.100-101, for finding of the court and carrying out of sentence.

wrote:-

I have now only to lament that you should, in a moment of irritation, have been betrayed into an act which, at the same time exposes you personally to considerable risk ... [of] diminish[ing] your Influence amongst the more respectable part of the Community, who justly look upon the Law as the only true foundation of authority.²³

This incident illustrates two points. Firstly, Bathurst's comments immediately above, and subsequent commotion over a petition to the House of Commons, supports Ritchie's view of Macquarie's aberrant behaviour which at times unduly influenced decisions during his government.²⁴ Secondly, and of greater significance is the recognition in London of a growing sophistication in colonial society, with the free settlers voicing their opinions and being heard in London. But Macquarie could not see this. He replied to Bathurst, somewhat unwisely defending his behaviour. The motivation behind Macquarie's apparent over-reaction both with Vale and then in his reply to Bathurst, is partly explained in the last paragraph of his dispatch:-

I have been bred in the School of Subordination too long ... Your Lordship would not wish to see me degraded by tamely submitting to the subversion of my Authority as Governor in Chief ... either by Mr. Vale, or any other seditious, unprincipled person.²⁵

Shortly after, in a private confidential letter, Macquarie submitted his resignation to Bathurst due to the 'sudden change in your Lordship's Sentiments towards me'. Macquarie also formally submitted his resignation in an official dispatch. Bathurst declined to accept Macquarie's resignation in the private letter, and took no action on the official dispatch.²⁶

Macquarie's wrathful self-justification continued when he learnt of a petition submitted to the House of Commons. Linked with the Vale affair, it contained many complaints against Macquarie and his government.²⁷ In

²³ HRA, I, 9, pp.206-207. Bathurst to Macquarie of February 1817.

²⁴ See above, Chapter 13, p.331. Considered in relation to the 1816 anti-Aboriginal operations.

²⁵ HRA, I, 9, pp.491-493. To Bathurst of November 1817.

²⁶ HRA, I, 9, pp.495-501. Private letter to Bathurst; pp.501-502, official dispatch; both of December 1817. For Bathurst's reply, pp.838-840, of October 1818.

²⁷ HRA, I, 9, p.866, Commentary Note 77. While a copy of the petition is 'not available', this note lists the charges against Macquarie.

Macquarie's opinion this was a 'wicked, libellous [sic] and Seditious Address', and on this basis, he dealt with the signatories.²⁸ They came under direct attack by Macquarie, who advised London that recent land grants and 'other Indulgences' would be cancelled, as these men intended 'to undermine me and blast, if possible, My honor and Public Character'.²⁹ As a result, Macquarie was further reprimanded by Bathurst, who cautioned him 'most strongly against any proceeding in future, which can have a tendency to check the Right of Petitioning either House of Parliament, as such Conduct on your part cannot fail to call forth from His Royal Highness the strongest Marks of Displeasure.'³⁰ In this episode, Macquarie appears almost not to represent the civil power, but to act as a rather out of touch military figure, reacting against the increasing power of free settlers in "his" colony. As considered in Chapter 13, the longer term implications of these conflicts contributed to the appointment of the Bigge Inquiry.

While the Treaty of Ghent, and later in November 1815, the Second Treaty of Paris, brought peace to the world, this peace did not end external security problems for geographically isolated New South Wales. Both the British and colonial governments showed concern over the colonial ambitions of both the Bourbon monarchy of France and the Dutch government. Threats from these nations are considered below.

In the immediate wake of the Napoleonic Wars, J Dunmore sums up France's maritime position under the restored monarchy. With 'their ports in ruins, their maritime trade almost at a complete standstill, the French had little opportunity of organizing or financing a major voyage of exploration'.³¹ Revival of trade links, not empire, were the immediate concern in the post-war period. In this environment, the French Parliament 'reduce[d] the combined naval-colonial vote in 1817'. However, in 1816, Louis de Freycinet having completed his account of the

²⁸ HRA, 1, 9, p.410. Macquarie to Goulburn of May 1817.

²⁹ HRA, 1, 9, pp.330-331. Macquarie to Bathurst of April 1817.

³⁰ HRA, 1, 9, p.762. To Macquarie of May 1818.

³¹ J Dunmore, *French Explorers in the Pacific, The Eighteenth Century*, Vol. 2, Oxford, 1965, p.49, and *passim* Chapters: 'The Background' and 'Freycinet'.

1800-1804 Baudin expedition (which he accompanied as a naval officer), drew up a plan which won the support of Louis XVIII. In this 'emphasis was not on discovery - for there was not much left to discover - nor on close hydrographic surveys, but rather scientific work. The Academy of Sciences outlined some of the research which Freycinet might undertake'.³²

Freycinet's expedition was to be exclusively of naval officers and men, unaccompanied by civilian scientists who had created problems on D'Entrecasteaux's and Baudin's voyages.³³ It was planned that Freycinet make detailed historic, geographic and natural history observations on the coast of New Holland (between what is now Albany and Shark Bay), thence to the East Indies, central Pacific islands and Port Jackson, returning around Cape Horn. Sailing in September, he did not make for King George's Sound but went directly from Timor to Shark Bay, then sailed through the central Pacific before arriving at Port Jackson, where 'a most comprehensive study was made of the aborigines and colonial society'. Shipwrecked in the Falkland Islands, Freycinet and survivors did not return to France until November 1820.³⁴ Unlike subsequent French expeditions, neither LR Marchant nor J Dunmore suggest that this first post-war French exploration had any ulterior colonial-political motives.

The British, having diplomatic relations with France, and a contingent in the army of occupation in the country until 1818, should have been well placed to obtain overt and covert intelligence to confirm the purely scientific nature of Freycinet's planned voyage. Yet despite this, London reacted as though this voyage was either a precursor to, or an actual threat to their Pacific interests. Perhaps this was not an unreasonable attitude, as the next French expedition led by Isidore Duperrey 'was enjoined ... by his instructions ... to report on the possibility of establishing a settlement in Western Australia, which was not yet

³² J Dunmore, *French Explorers*, Vol. 2, p.63.

³³ LR Marchant, *France Australe, a study of French explorations and attempts to found a penal colony and strategic base in south western Australia 1503-1826*, Perth, 1982, p.213. The scientific duties being carried out by naval officers.

³⁴ LR Marchant, *France Australe*, pp.212-213. For Freycinet's tasks and proposed route, pp.218-219 for voyage.

recognised as a British possession'³⁵

Two dispatches from Bathurst to Macquarie referred to Freycinet's expedition. The first of January 1817 advised that a French expedition under 'Monsr. de Freycinet [was] upon a Voyage of Circumnavigation', and should be given 'every facility ... both in regard to the repairs ... [and] supplies' required. As the copy of this dispatch, quoted in *Historical Records of Australia*, indicates this was sent 'per corvette L'Uranie', Freycinet's vessel, it is reasonable to assume that another copy was sent directly to Macquarie.³⁶ The other dispatch of February 1817, indicated the thrust of British reaction to this expedition. The governor was advised that 'Circumstances consequent upon the restoration of Peace [with France] have rendered it most important to explore, with as little delay as possible' parts of the Australian coastline not previously charted by Matthew Flinders, and that an expedition had been commissioned to do so.³⁷ This dispatch was probably amplified by the verbal brief that Macquarie would have received from the expedition's leader, Lieutenant Philip King, who arrived in Sydney in September 1817, the same month in which Freycinet sailed.³⁸ The urgency in commencing King's mission is evident from Dunmore's comment (above) that the French did not recognise Western Australia as a British possession.

In September 1817, probably after discussions with Lieutenant King, Macquarie replied to Bathurst's dispatches:-

I am perfectly sensible of the great importance, both in respect to the Mother Country and the future prosperity of this Colony, of preventing the French or other European Nation from forming any Settlement in any part of this Continent ... and necessity of using every possible means and precaution to frustrate the present intentions of the French Government in this instance.³⁹

³⁵ J Dunmore, *French Explorers*, Vol.2, p.111. Duperrey's expedition lasted from 1822 to 1825.

³⁶ HRA, 1, 9, p.196.

³⁷ HRA, 1, 9, p.207.

³⁸ HRA, 1, 9, p.543; for Lieutenant King's arrival in Sydney and Commentary Note 52, p.859 for King's personal details.

³⁹ HRA, 1, 9, p.488. To Under Secretary Goulburn; also Commentary Note 51, p.859 stated 'At this period [February 1817] the continent ... was *regarded generally* [author's emphasis] as divided into two parts, ... known as New South Wales and New Holland.'

This indicated two inter-related politico-strategic points emanating from London and concurred with in Sydney. Firstly, there was a growing realisation that New Holland was not considered a territory separate from the colony of New South Wales, but rather the whole continent of Australia was seen as a British sphere of influence, even if not of future domain. Secondly, the British government was concerned over Bourbon France's intention to regain a position of power in the Indian-Pacific Ocean regions, and the possibility of their developing a settlement in Australia which could serve as an anchorage and base for future expansion in the region.

While London's reaction to Freycinet's expedition was to task King to complete Flinders' charting of the Australian coastline, there were separate colonial reverberations to this perceived French threat. Lieutenant-Governor Sorell in Van Diemen's Land, having received warning of Freycinet's cruise from a visiting British ship's captain, wrote to Macquarie: 'I conclude, that with respect to this Island, in its whole circumference, it is considered as possessed by Great Britain, and of course that foreign ships should not act in any way upon its Shores.'⁴⁰

Macquarie replied to Sorell:-

As to their [the French] attempting to make any footing in Van Diemen's Land, ... [this] must be resisted in case they should have the temerity to attempt such an Act of aggression, the whole of the Island ... being the exclusive Property of the British Crown. Lieut. King set sail from hence ... on the 22d of last month, along the Western Coast of Australia.⁴¹

This dispatch again emphasises Macquarie's (and Bathurst's) concern that the sovereignty of the whole of the Australian continent was a matter of import.

With the flurry of dispatches between Sorell and Macquarie of December 1817 and January 1818 regarding Freycinet, it may have been more than coincidence that during 1818, the 'Mulgrave Battery' of six guns was completed at Knopwood's (now Battery) Point in Van Diemen's Land.⁴² In April 1819, to

⁴⁰ HRA, 3, 2, p.290. Dispatch of December 1817.

⁴¹ HRA, 3, 2, p.297. Dispatch of January 1818.

⁴² C Sargent, *The Colonial Garrison 1817-1824, The 48th Foot The Northamptonshire Regiment in the Colony of New South Wales*, Canberra, 1996, p.64. First fired for a royal salute in August 1818.

create interlocking arcs of fire with the Mulgrave Battery, Sorell sought authority for 'Security of whole Harbour ...[to construct] a small Work and Guard on Hunter's Island [now Hunter Street]' using some old Guns which were not in use at Sydney.⁴³ As there were no spare guns in Sydney, Macquarie authorised Sorell to purchase 'Two or Three Guns' from any visiting ship, using 'the Police Fund, provided you can procure them on reasonable terms.'⁴⁴

Meanwhile, in Sydney, defences were also strengthened, with a seven gun 'small Fort' constructed at Bennelong Point. London was advised of this in December 1817. These guns had remained untouched since being sent out from England a few years earlier, and were only now mounted as a result of the defence activity created by Freycinet's projected visit.⁴⁵ Presumably, these were the same 'old Guns' which Sorell referred to in his request to Macquarie. Despite this extra defence activity, Freycinet commented after his visit to Sydney in November-December 1819, that:-

Should one arrive in the colony from the Botany Bay side, from Broken Bay, or from any direction other than the normal route, fortifications are even more strikingly lacking. It is obvious that the Governors have relied, for the colony's security, rather more on the degree of isolation that results from its immense distance from Europe's conurbations, than on military means.⁴⁶

At Botany Bay, Dunmore recounts that in January 1824, French officers from Duperrey's expedition, visited the site 'where La Perouse wrote his last message', and refers to 'soldiers from the near-by fort' growing vegetables in the 'Frenchman's Garden'.⁴⁷ Apart from the temporary fort built by La Perouse in 1788, no other record of a defence work covering Botany Bay has been noted. This 'fort', was only a watch tower, built at Macquarie's orders to prevent

⁴³ HRA, 3, 2, p.389. Sorell to Macquarie.

⁴⁴ HRA, 3, 2, p.396. Dispatch of May 1819.

⁴⁵ HRA, 1, 9, p.720. Macquarie to Bathurst.

⁴⁶ L De Freycinet, *Reflections on New South Wales 1788-1839*, translated T Cullity, Potts Point, 2001, p.522. For description of fortifications, p.521.

⁴⁷ J Dunmore, *French Explorers, Vol.2*, p.139. Dunmore's text appears to refer to a fort other than that built by La Perouse's expedition. Although the wording 'A few rows of vegetables still survived in Frenchman's Garden' would indicate a counter view.

clandestine smuggling of liquor. It was apparently only manned for two years; in 1824 by four invalid soldiers and in 1825 by two others.⁴⁸ Nevertheless, as pointed out by Freycinet, Sydney was vulnerable to attack from the landward side by an enemy landing at Botany Bay. Austin is of the opinion that when constructed, Victoria Barracks was sited to fend off any threat from that direction.⁴⁹

Discussing French motives for maritime expeditions, Marchant comments that it was not until after Freycinet's departure and the end of allied occupation in 1818, that 'the newly independent French restoration government lost little time preparing to create a new French empire.'⁵⁰ They also, for the first time, made 'specific plans to colonise western Australia'. This resulted in expeditions in Australian waters by Duperrey in 1822, Bougainville 1824 and d'Urville 1826. Although outside the parameters of this thesis, these voyages created a continuity of concern, linking Macquarie's government with those of Governors Brisbane and Darling. An indication of renewed French interest in a western Australian settlement comes from Bougainville's *Journal*. He wrote that the French government (somewhat optimistically) 'thought it could establish a colony here without giving umbrage to them [the British]'.⁵¹ On this, Dunmore comments:-

the British had been advised by their ambassador in Paris that the French were thinking of a penal settlement in New Holland; the news of Bougainville's expedition and of the projected departure of Dumont d'Urville's had further shaken British composure. ... As late as 1824, British administrators in New South Wales laid no claim to jurisdiction beyond the Nullarbor Plain⁵²

The ambassador's warning was translated into action by Bathurst in a secret directive to Governor Darling of March 1826:-

The sailing of Two French Ships [presumably Bougainville's and d'Urville's] ... have led to the consideration how far our distant possessions in the Australian Seas may be prejudiced by any designs,

⁴⁸ L De Freycinet, *Reflections on New South Wales*, p.255, for built at Macquarie's orders; p.481, for smuggling and p.521, for manning details.

⁴⁹ M Austin, 'The Early Defences of Australia', *JRAHS*, Vol.49, Pt.3, November 1963, p.204. Austin considered that the barracks also protected Sydney's main water supply at Bushby's Bore.

⁵⁰ LR Marchant, *France Australe*, p.221.

⁵¹ J Dunmore, *French Explorers*, Vol.2, p.169.

⁵² J Dunmore, *French Explorers*, Vol.2, p.169.

which the French may entertain of establishing themselves in that quarter, and more especially on that part of the Coast ... which has not yet received any Colonists from this Country.⁵³

This directive resulted in Darling dispatching parties to form settlements at Westernport (present day Victoria) visited by d'Urville in 1826, and also at King George's Sound (Albany, Western Australia). Freycinet, who drew a detailed chart of the Sound during Baudin's expedition, later wrote that the 'magnificent situation of King George Sound ... had for long been tempting Europeans to establish themselves there ... [and] could not escape England's bright and questing glance.'⁵⁴ This location was visited by d'Urville in October and settled by the British in December 1826.⁵⁵ After this, Marchant notes that French interest in, and exploration of the western coasts of Australia ceased.⁵⁶ This comment is subject to doubt, for while no further French expeditions were sent to New Holland, as late as August 1828 the Colonial Office was concerned about plans for a French penal colony in the region. As discussed below, this information led to the establishment of the Swan River colony.

While the French searched for new colonies, the Dutch were also active, anxious to re-establish control over their former colonial empire, the East Indies, and to enforce their former dominant position in the island chain to Australia's immediate north. This empire had been captured by the British during their 1810-1811 colonial war with the Dutch, but was returned to them in 1816, in accordance with treaties ending the Napoleonic Wars.⁵⁷ It was therefore inevitable that there would be post-war rivalry between the Dutch striving to regain their former pre-eminent position and an enveloping British threat to their trade. This came from

⁵³ HRA, 1, 12, p.195.

⁵⁴ L De Freycinet, *Reflections on New South Wales*, p.221. Freycinet also noted that Westernport 'failed to prosper' and was abandoned by the British in 1831.

⁵⁵ J Dunmore, *French Explorers*, Vol.2, pp.181-182. HRA, 1, 12, p.699-702 Darling to Bathurst of November 1826 with attached secret instructions to the two settlement commandants. Also p.730, Governor Darling to Under Secretary Hay of December 1826: reporting French movements and a fortunate concentration of British warships at Port Jackson.

⁵⁶ LR Marchant, *France Australe*, p.209.

⁵⁷ RE and TN Dupuy, *Military History From 3500 B.C.*, p.868. Under the terms of the Capitulation of Semarang, September 1811, Java, Palembang, Timor and Macassar were ceded to Britain.

the north in 1786 with the British acquisition of Penang, and increased after 1819, when Sir Stamford Raffles negotiated the use of Singapore's harbour to erect a factory.⁵⁸ A southern threat to Dutch trading interests was posed by the spread of settlement in Australia accompanied by a likely development of maritime trade in the islands to the north.

Lieutenant King on his return to England in 1823 (less than two years after Macquarie handed over government to Major General Sir Thomas Brisbane) reported favourably on the possibility of a settlement in northern Australia and development of British trade in the East Indies.⁵⁹ The Second Secretary of the Admiralty 'supported the plans for a British establishment on Australia's north coast, ... primarily ... to secure a British presence there for strategic reasons.'⁶⁰ Such a settlement was intended to pre-empt the Dutch establishing an outpost in northern Australia, based on their claim of sovereignty by right of discovery. Commercially, it was hoped that a settlement would provide an entrepot, attracting Malays who visited the region fishing for trepang. Another commercial factor which influenced the establishment of a British settlement, was pointed out by Freycinet. He noted that the Dutch were demanding exorbitant tolls from British merchants to use East Indies ports and the latter looked to establishing warehouse facilities on Australia's northern coast.⁶¹

Meanwhile, diplomatic conversations between the English and Dutch, were taking place preparatory to finalising an Anglo-Dutch Treaty to ensure friendly relations between the two.⁶² As pointed out by Hall, to reach a satisfactory outcome, the treaty needed to resolve the contentious issue of recognition by both powers of their separate spheres of influence in the East. A proposed provision of

⁵⁸ DGE Hall, *South-East Asia*, p.471.

⁵⁹ HRA, 1, 11, p.918, Commentary Note 54.

⁶⁰ P Donovan, 'Chapter 3, History of the Northern Territory', *The Northern Territory in the Defence of Australia: Geography, History, Economy, Infrastructure and Defence Presence*, eds. D Ball and JO Langtry, Canberra Papers on Strategy and Defence No.63, 1990, p.52.

⁶¹ L De Freycinet, *Reflections on New South Wales*, p.218.

⁶² DGE Hall, *South East Asia*, p.479. For account in this paragraph of Anglo-Dutch negotiations.

this treaty was that officials of either party would not 'form any settlement on any of the islands in the Eastern Seas without previous authority from their respective governments in Europe'. Apparently Bathurst was intent on ordering the establishment of a settlement in northern New Holland or adjacent islands, before this treaty was signed. This may have been because the question of sovereignty over that region remained unresolved.

One month before the Anglo-Dutch Treaty was signed, Bathurst acted decisively, apparently with Admiralty cooperation, to ensure British sovereignty over northern Australia. Captain James Bremer, commanding HMS *Tamar*, was directed to 'establish a British settlement on the North West Coast of New Holland'. Also he was to take formal possession of the 'Coast between the Western Coast of Bathurst Island and the Eastern side of Cobourg Peninsula, including the whole of Bathurst and Melville Islands and the said Peninsula' (Figure 27⁶³). Before sailing to northern Australia, Bremer was ordered to proceed without delay to Port Jackson, where Governor Brisbane was instructed to provide Bremer with a small military detachment and stores to establish the settlement. In advising Brisbane of the plan, Bathurst wrote that from:-

a Commercial and Military point of view ... a Ship of War without loss of time [shall be dispatched from England] to the North West Coast of New Holland for the purpose of taking formal possession in the name of His Majesty of that part of the said Coast.

There a settlement was to be established which Bathurst made clear was to be:-

a Military Station involving the security of our important possessions and valuable Trade in that part of the World ... [which] would ... not only furnish the necessary Protection to our Trade in that Quarter, but would give security to the East India Company's and the Indian Private Trade to China by the Eastern Route.

Additionally, if the Dutch had already established an outpost in the north west before Bremer's arrival, he was to then establish a settlement at Liverpool River in Arnhem Land (Figure 27).⁶⁴

⁶³ A Sharp, *The Discovery of Australia*, Oxford, 1963, Figure 27 map facing p.282. From Phillip Parker King's chart of the northern coast.

⁶⁴ HRA, 1, 11, pp.227-229. Bathurst to Brisbane of 17 February 1824. For instructions to Bremer and Brisbane.

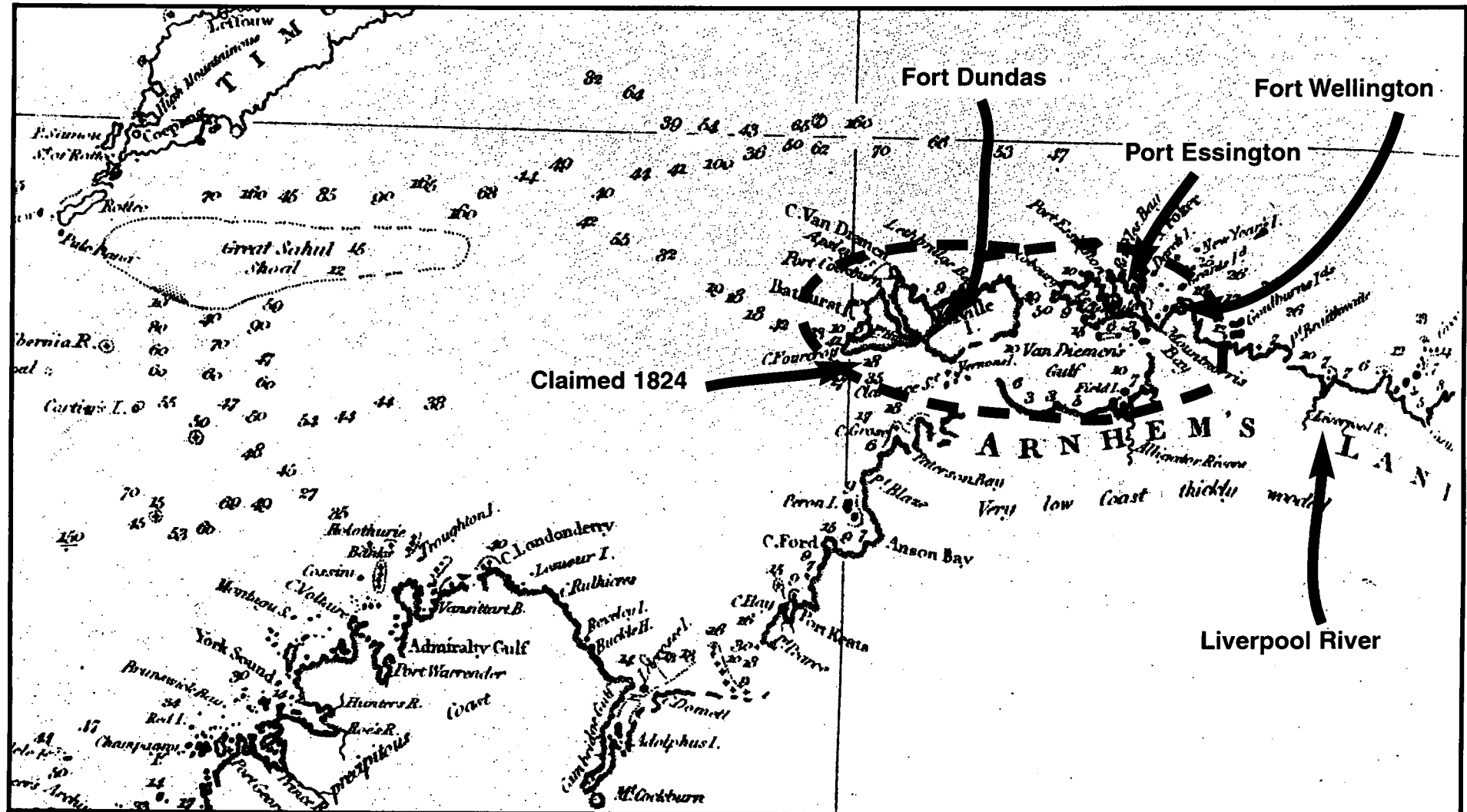


Figure 27: Northern Australia including area claimed by Bremer 1824
(Part of Phillip King's Chart of the north coast of Australia)

Six months after Bathurst's dispatch was written, Brisbane was able to advise Bathurst that support as directed had been given to Bremer.⁶⁵ *Tamar* sailed from Port Jackson on 24 August, and on 20 September 1824, at Port Essington, on Cobourg Peninsula (Figure 27) in northern Australia, Bremer took formal possession of the area as delineated by Bathurst. Bremer then sailed to Melville Island, where due to concern for imperial rather than colonial external security, construction of a fort was commenced. On 21 October 1824, Bremer noted that 'I had the satisfaction of hoisting His Majesty's colours at Fort Dundas' (Figure 27).⁶⁶

Sovereignty over Australia's northern coastal areas was strengthened in July 1825 with the publication of Governor Darling's Commission which incorporated the strategic area claimed by Bremer and all land to the south, into the colony of New South Wales. This was achieved by promulgating that the colony's western boundary was moved further westwards, from 135 degrees to 129 degrees of longitude east of Greenwich (Figure 28).⁶⁷ But as Darling pointed out to London in November 1826, despite the Fort Dundas settlement, and similar outposts about to be established at Western Port and at King George's Sound, the legality of Great Britain's claim over all of New Holland remained doubtful. He wrote 'it would be difficult to contend or satisfy any other Nation, desirous of making a Settlement on the Western Coast [of New Holland], that we have an indisputable right to the Sovereignty of the whole Territory.' Darling continued, suggesting that his commission as governor be amended to include all New Holland as a part of New South Wales. Such an action, coupled with a settlement on 'the Western Coast ... might possibly tend to prevent the interference of any

⁶⁵ HRA, 1, 11, p.338. Brisbane to Bathurst of August 1824.

⁶⁶ D Lockwood, *The Front Door*, p.6. P Donovan, 'Chapter 3, History of the Northern Territory', p.52. Fort Dundas being unsuitable for trading was abandoned in January 1829. Meanwhile, based on advice by Captain James Stirling RN (HRA, 1, 12, pp.775-776 to Governor Darling of December 1826), a new outpost, Fort Wellington, was established in June 1827 at Raffles Bay on Cobourg Peninsula (Figure 27). In August 1829, this settlement was also abandoned as a result of directive from London of November 1828.

⁶⁷ HRA, 1, 12, p.100. Map for Figure 28, drawn from concepts noted elsewhere.

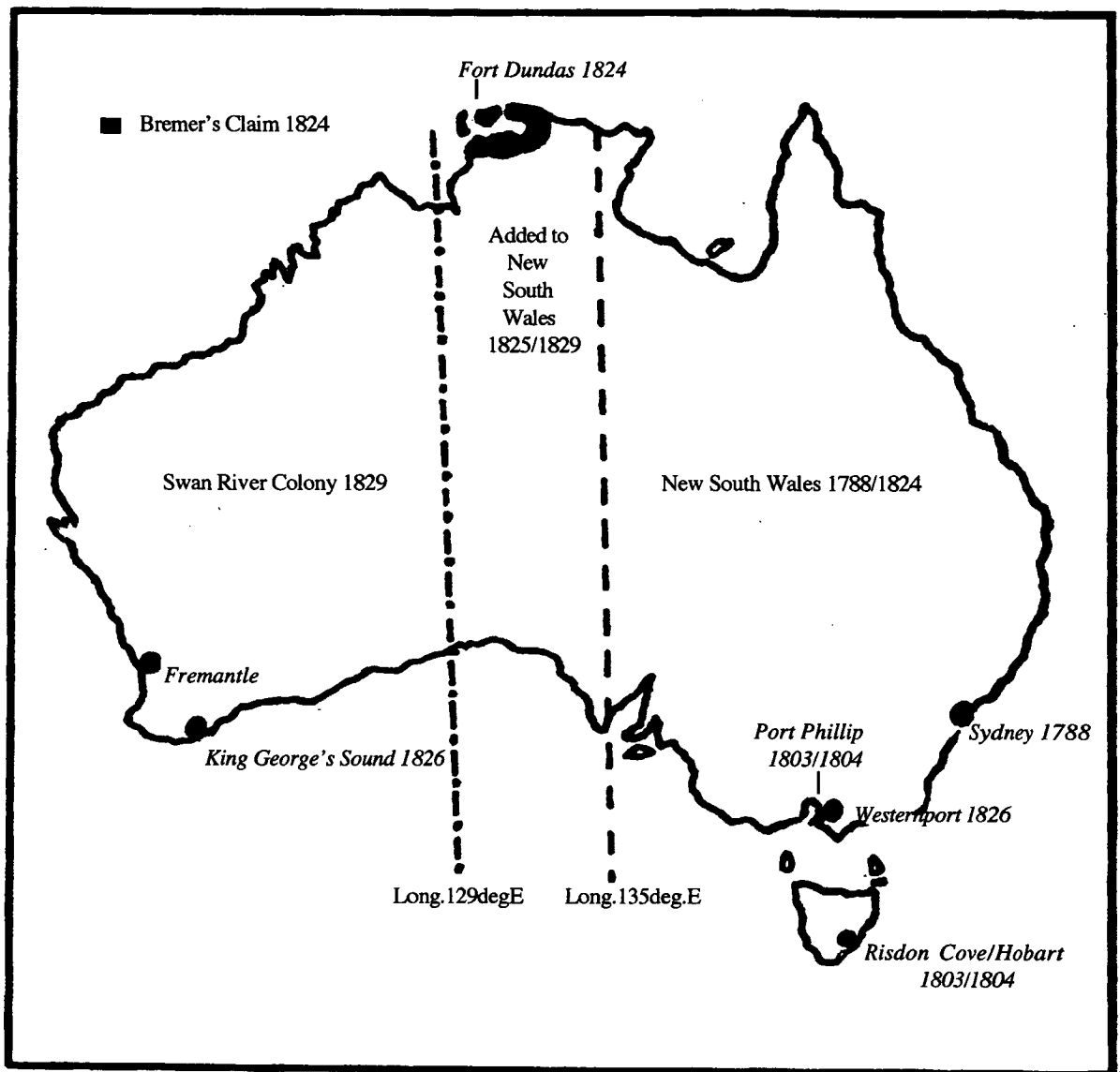


Figure 28: Spread of British Sovereignty 1788-1829

Foreign Power and might set the matter at rest.⁶⁸

Although these events occurred after Macquarie's departure from Sydney, the imperative for establishing the outposts in northern Australia and the subsequent change to the colony's western boundary were directly linked to the Napoleonic post-war settlements between the Dutch and British, the establishment of Singapore, and King's circumnavigation of Australia. All these events occurred during Macquarie's governorship although the final resolution of these post-war external security threats, of French or Dutch settlements on continental Australia, was not achieved until 1829, in the post-Macquarie period.

Following an 1827 proposal by Captain James Stirling RN that a colony be established at Swan River on the west coast of New Holland⁶⁹, there was considerable criticism within the Colonial Office, due to the costs involved. Also it was disputed that the French would form a settlement in such a remote land. However, the Colonial Office finally approved the scheme after advice was received in August 1828 from the British Ambassador in Paris, of a press report suggesting a French penal colony was being considered for New Holland. The ambassador also reported that the French Minister of Marine was examining the possibility of transportation to Australia. As a result, in November 1828, the Colonial Office requested the Admiralty dispatch a warship to Swan River to proclaim British sovereignty. This was implemented in May 1829, when Captain Charles Fremantle RN took formal possession of the western part of the continent.⁷⁰ Expressing a French view of the British imperialism evidenced by the Australian colonies, Freycinet wrote:-

By creation of its southern colonies, Great Britain has laid the foundation of a vast empire in the four corners of the globe. This has arisen ... behind a veil of mystery ... without appearing to attract a great deal of attention from European diplomats. A possession, however, which borders on India's seas, which has control over the archipelagos of the Pacific Ocean,

⁶⁸ HRA, I, 12, p.700. Darling to Bathurst of November 1826.

⁶⁹ HRA, I, 12, pp.777-780. Stirling to Darling of December 1826.

⁷⁰ JJ Eddy, *Britain and the Australian Colonies 1818-1831 The Technique of Government*, Oxford, 1969, pp.242-244. It was not until February 1829 that the settlers under Stirling departed from England.

and threatens the richest states of Spanish America, seems ... of political concerns. ... [British] policy seeks to ensure that their industrial products have a place everywhere. They are practised at the seizure of any position of military significance anywhere on the ocean ... [leading to] the vastness of the[ir] network ... around the whole planet.⁷¹

Although the road over the Blue Mountains had been opened by 1815, British nineteenth century claims for extended sovereignty in Australia were not linked to the outward spread of settlement from Sydney. In regard to the extent of this spread, as late as 1829 it was still of a limited nature. This is illustrated by the limits of location gazetted by Government Order of 14 October 1829, restricting settlement to nineteen specified counties.⁷² This order, in theory, created a boundary to white settlement in New South Wales which was 'a rough semi-circle, with Sydney as its centre, and a radius of about 150 miles.'⁷³ It is noteworthy that the restrictions ordered were promulgated some five months after the British had laid claim to the whole continent.

The above argument, that the British flag preceded, rather than followed settlement and trade, is not negated by emigrant expeditions coming directly from England, as in the case of the failed settlement at Port Phillip in 1803 and the Swan River settlement of 1829. Western Australia as the first convict-free Australian colony was initially established by sixty-eight settlers, who sailed from England in February 1829 and arrived off Rottnest Island in June, the month after Fremantle laid claim to the region. It was not until August 1829 that the settlers moved to the mainland.⁷⁴ They had been drawn to this new land by Stirling's favourable reports of its potential prosperity, which resulted in a speculative expedition with Stirling as lieutenant-governor. But despite the commercial motive for settlement, RM Hartwell argues that the British government only approved the settlement to make

⁷¹ L De Freycinet, *Reflections on New South Wales*, pp.616 and 617-618, for British global policy.

⁷² CMH Clark, *Select Documents in Australian History 1788-1850*, Sydney, reprinted 1970, pp.225-226. This unenforceable order did not halt outward expansion from Sydney, nevertheless (without any consideration of settlement in Van Diemen's Land spreading between Hobart and Launceston) this order clearly indicates the limited nature of mainland expansion in 1829.

⁷³ NK Hancock, *Australia*, Brisbane, reprinted 1966, p.4.

⁷⁴ *The Macquarie Book of Events*, ed. B Fraser, McMahon's Point, second impression 1984, p.29.

good a claim of sovereignty over the complete continent because of their suspicion of French activities. This was unlike the 1836 establishment of the other convict-free colony, South Australia, which was founded on the 'faith' of liberalism and the 'formula' of Wakefield's theory of colonisation. It was also founded over the many objections of the Colonial Office, concerned about the added cost to the British government, while believing there was no strategic imperative or need to demonstrate sovereignty in that region.⁷⁵

After Trafalgar, a French invasion, or maritime coastal raids on New South Wales could be discounted. Spain and Holland were fully embroiled in the war, and even the American War of 1812 caused little concern in New South Wales. But, paradoxically, with foreign powers involved in these hostilities, the war in itself provided a protective shield against foreign powers making incursions into continental Australia. Probably CEW Bean was correct in emphasising another factor which was vital to Australia coming exclusively under British rule. He wrote that up to 1914, Australia was 'abnormal[ly]' fortunate that 'British command of the sea had given us in Australia 126 years of freedom without fighting for it.'⁷⁶ It is conceivable that without this defensive screen, the continent of Australia could have been divided between the British and French or Dutch, or between the three nations.

During this period, despite paying lip service to the needs of external security, Macquarie appears to have been more concerned with increasing his troop strength to ensure the maintenance of internal security. Nevertheless, long term external security problems developed in the post-war period, resulting from the possibility that Great Britain may have had to share continental Australia with other powers. In some regards British concerns to counter Dutch expansion and domination of sea routes, was seen in London as being of greater imperial

⁷⁵ RM Hartwell, 'The Pastoral Ascendancy, 1820-1850', *Australia: A Social and Political History*, ed. G Greenwood, Sydney, 1955, pp.70 and 72-73, for Western and South Australia respectively.

⁷⁶ CEW Bean, *ANZAC to AMIENS A shorter history of the Australian fighting services in the First World War*, Canberra, fifth ed. 1968, p.535.

significance than the security of New South Wales. Meanwhile, the possibility of the French founding settlements was taken very seriously in the colony as well as at the War and Colonial Office. This led to endeavours to improve coastal defences when advice of Freycinet's and subsequent French voyages became known. While Macquarie appreciated the post-war external security problems evident during his government, these were resolved after his return to the United Kingdom. Finally, in the same way that Risdon Cove was established for security reasons during the war, in the post-war period, external security stresses led directly to the development of British sovereignty and a scattering of outposts around Australia's seaboard (Figure 28). Under the protective shield of British sovereignty, settlements and squatters spread out, pastoralism and wool came into its own, together with commerce, industry and the great boost of gold mining, all contributing to colonial development.

Chapter 15

Conclusion

This study of external and internal security in New South Wales begins with consideration of problems involved in establishing a British overseas penal settlement at Botany Bay. At this point, the government gave serious consideration to particular security issues for the proposed colony. With the implementation of the scheme, and commencement of convict transfers to First Fleet transports, internal security duties commenced aboard the ships and continued ashore in the colony. In this strange and isolated outpost, problems were many, not the least being a long running struggle for authority between the civil and military powers. In 1793, five years after the founding of the colony, Britain was again at war, which virtually continued until 1815. This lengthy period of warfare created an interweaving of external with internal security problems. During the wars, the geographically isolated colonial administrations were understandably more concerned about the local impact of these conflicts than either the War and Colonial Office or Horse Guards. In the post-war period, internal tensions in the colony continued, with the autocratic governor, Macquarie, prepared to enforce harsh discipline, as required to maintain internal security in a penal settlement, while at the same time looking to the future by building an infrastructure appropriate to a crown colony. Towards the end of his appointment, the Bigge Inquiry led to the recommendation of civil reforms which were implemented after Macquarie's departure. Meanwhile, external security problems continued after the 1815 peace, resulting in British sovereignty being established over the Australian continent by 1829.

With the prison hulks overflowing after the loss of her former American colonies, it was imperative for the British government to locate a suitable site for a

penal settlement, and several African locations were examined. Finally after Das Voltas Bay was found to be unsuitable, a decision was hurriedly taken to establishment a penal colony at Botany Bay. In the government's planning to implement this decision, consideration was given to ensuring the internal and external security of the proposed settlement.

Despite its geographical isolation from Europe, and from western powers' settlements in the Indian-Pacific Oceans, international power politics involving France, Holland and Spain influenced the British government in their decisions, designed to protect the external security of the future settlement. There was traditional enmity between England and France, and that country, together with Spain and Holland had been at war with Great Britain only four years (three in the case of Holland) prior to the First Fleet sailing. Spain had stakes in the Pacific and the Dutch in the southeast Asian archipelago. Additionally, from the time of Bougainville's circumnavigation in the 1760's, French interest had become evident in the region. Her possession of Ile de France, in the Indian Ocean could provide a base for any further aggressive French moves in the Pacific. From 1785, British concern was heightened by the treaty between the Dutch 'Patriot' government and the Kingdom of France. Diplomatic care needed to be exercised by the British, as antagonising one power could lead to repercussions with both. Such a situation short of war, could include denial of the essential port facilities at the Cape of Good Hope, curtailing Britain's trade with India and the east.

Britain was apparently less concerned about antagonising the weakened Spanish Empire. However, any wartime alliance between Spain and France created a potential naval threat to the British, as it had during the War of American Independence, and would in the future, until the Battle of Trafalgar in 1805. The Spanish claims to the Pacific dated back to the 1494 Treaty of Tordesillas. These were ignored by the British in proclaiming the eastern boundary of New South Wales extending for an indeterminate distance off-shore. Likewise, Phillip's orders to occupy Norfolk Island, completely ignored Spanish pretensions to sovereignty in that part of the Pacific. With La Perouse known to be making for the Pacific, London had feared that the French would lay claim to the island with a view to using it as a forward base for any raid on Botany Bay. Hence the British

interest in settling the island to forestall the French.

A different approach was required to prevent Dutch antagonism over the establishment of Botany Bay. Due to Holland forcing Portugal out of the East Indies, the Dutch became the inheritors of that spice rich archipelago which lay to the west of the Tordesillas' antimeridian of 134 degrees 40 minutes longitude east of Greenwich. This antimeridian which roughly divided the Australian continent, was equally acceptable to the Dutch as well as the Spanish, with the latter's interest centred on trading across the Pacific, and not westward of the antimeridian. In addition to the western coastline of New Holland, with Tasman's claim to sovereignty over Van Diemen's Land, and his, and other Dutch explorations in the Gulf of Carpentaria, they, by right of discovery, could have claimed New Holland. However, they refrained from doing so, as opposed to Cook, on the eastern seaboard of Australia, laying claim to the whole east coast which became known as New South Wales.

It is suggested by some historians that to replace the empire lost in America in 1783, the British decided to claim sovereignty over that vast part of Australia outside the main area of Dutch interest. This was achieved by declaring the western boundary of New South Wales to be 135 degrees of longitude, being on the Spanish side of the Tordesillas antimeridian. In doing this, the British government must have considered that the Dutch, would not take any punitive measures although Van Diemen's Land and the Gulf of Carpentaria lay inside the boundaries proclaimed for the future colony. They were correct, the only recorded reaction was a verbal protest made by the Dutch Ambassador in London against the British claim to territory which belonged to 'another country'. Nevertheless there was a degree of apprehension over Dutch reaction to this initiative. This was evident when the First Fleet unexpectedly sighted La Perouse's ships off Botany Bay. Some British officers speculated whether these vessels were Dutch warships intent on opposing their landing. This respect for Dutch power changed after the Napoleonic Wars in which they had suffered defeat in Europe, and conquest of their East Indies possessions by the British. In the 1820's, the victorious British Empire claimed sovereignty over New Holland lying to the west of the Tordesillas antimeridian.

Internal security for the planned colony was to be provided by an armed force allotted to support the civil power - an autocracy commanded by a naval governor. The marines initially provided the military 'battalion', in which both officers and men, were virtually all volunteers and apparently as good as any regular unit of that period. Unfortunately their commanding officer, Major Ross, had significant character weaknesses. With an inflexible attitude, and a temperamental and impulsive nature, he demanded loyalty from his subordinate officers, while not being prepared to show loyalty to his own superior officer, the 'Captain-General and Governor-in-Chief'. His continual complaints to London that Phillip would not follow his advice to build a fort for internal defence, and more significantly, threatening to order his marines to use bayonets if apprehended by the civil watch (which had been formed in Sydney with Ross' concurrence), led to clashes with Phillip. Phillip's traditional naval attitude of remaining aloof from his junior officers, did not ease the relationship. Ross' inefficiency over critical matters was demonstrated by his failure to ensure that sufficient musket ammunition was available for his marines before the First Fleet sailed from England, and also when he incorrectly placed five of his officers under arrest in the colony. Yet freed from Phillip, and no doubt having gained in experience from carrying out the duties of his civil office as lieutenant-governor in Sydney, when posted to Norfolk Island, Ross performed credibly. Unfortunately, he was typical of many officers, demeaned and annoyed in being required to perform colonial penal functions of a less than military nature. This attitude, amongst others, gave rise to a strained relationship between the civil and military powers in New South Wales which continued through to the Macquarie era.

In particular, the judicial system approved by parliament, relied on naval and military officers acting as both jurors and sentencing judges. Jeremy Bentham severely attacked this form of justice in 1803, because, while the governor had been granted power to promulgate orders which had the force of law, he had no formal approval to order appropriate punishments. This was a philosophic argument, but in practical terms, as the colony developed, free settlers strongly objected to being subject to local orders devised to suit a penal settlement, rather than English laws. Further, they resented the possibility of facing a court in which uniformed officers used court martial procedures to dispense justice. With a lack of suitable officers

coming out to the colony during the French Revolutionary and Napoleonic Wars, Balmain made the point that some 'ill-bred and ignorant' officers were not fit to be court members.

As well as the criminal court later causing civilian resentment, the marine officers of the First Fleet vigorously opposed being detailed as members of this court. Claiming, apparently correctly, that when they volunteered for duty in New South Wales they were not told of this quasi-civil legal requirement in the new colony, they resented being employed on other than strictly military duties. For a force that was specifically raised to 'enforce due subordination and obedience over the convicts', this was a fine point. Clearly the intention was to use the marines on internal security duties as police and jailers. Nevertheless, this discontent amongst the marine officers, caused Phillip and London concern, and was one of many factors which contributed to the replacement of the marines by the New South Wales Corps.

Another grave weakness associated with military officers forming the criminal court was their capacity to manipulate the law to suit their own ends. This occurred in 1803, when Captain Kemp was being prosecuted by Surgeon Harris, acting under Governor King's instructions. The acting commanding officer of the Corps, Major Johnston, forced King to replace Harris by threatening to indefinitely delay Kemp's hearing, which would have completely disrupted the dispensing of justice in the colony. These circumstances were replicated in 1808, when Kemp presided over the trial of John Macarthur, with Johnston again the acting commanding officer in Sydney. Kemp's aim was to force Bligh to replace the nominated prosecuting officer, but the result was different. Bligh held firm, and as a result of the two day confrontation, the Corps' insurrection against Bligh took place. Here, the justice system was itself a factor contributing to the breakdown of internal security as far as the civil power was concerned. A farcical scandal involving military officers administering "justice" occurred in 1813, when two drunken subalterns of the 73rd Regiment attacked and killed a man, who was attempting to protect his wife and another woman. The two officers found were guilty of manslaughter and fined one shilling and sentenced to six months jail. Macquarie was appalled at this miscarriage of justice. When the 73rd departed

from Australia, the two were again serving in the regiment.

Hunter had previously appointed two civilian magistrates in an effort to limit the power the military derived from their tight grip on the judicial system in the colony. He advised London that his intention was to thwart the Corps in their attempts to 'overthrow the civil power and to continue that disorder, confusion and disobedience' which had commenced after Phillip's departure from the colony. Despite these apparent weaknesses in the administration of justice, and its impact on internal stability, the scheme approved by the British parliament in 1786 was a practical attempt to overcome the lack of free settlers available to form a jury. Additionally, in the longer term, the military-style criminal court did provide an example, albeit a poor one, of a functioning jury system, from which evolved a civilian manned court under the control of a chief justice, rather than that of an autocratic governor as was the case up to Macquarie's time.

Stress in the colonial judicial system between the civil and military powers, contributed to the 1808 insurrection and breakdown of security. Yet even when the military was in revolt, they still maintained security over the convicts in the colony. Further, by the Corps arresting Bligh in Sydney and preventing him fleeing to the Hawkesbury, Bligh was unable to attempt to raise a militia 'loyal association' against the military. Should he have been successful, such an unstable situation could have encouraged dissident convict elements to take advantage of the disorder and possibly rebel against the authority of both Bligh and the Corps. The potential for civil strife was indicated during the Castle Hill rebellion of 1804, when a handful of leaders expected over a thousand convicts to rise up on their orders against the security forces.

Reports from Captain Cook's visit in 1770, left little doubt in the minds of the British authorities in London that the first settlers sent to New South Wales would be occupying an undeveloped land, empty except for wandering groups of natives. Later it came to be formally held that the 'colony was acquired neither by conquest nor cession, but by the mere occupation of a desert or uninhabited land', and thus the principle, if not the name of *Terra Nullius*, came to be legally applied. The authority to grant land sprang from Phillip's Second Commission of 1787

which gave him (and future governors within certain restrictions imposed from time to time) authority to dispose of and grant land to persons as he saw fit.

The predatory appropriation of traditional Aboriginal lands for white settlement, created inevitable enmity between the two groups. Without a police force, it was the unenviable task of the military to keep the king's peace, particularly along the ever expanding boundaries of white settlement. Soldiers, by training, understood their role in operations against Aborigines such as those conducted by Phillip and Macquarie in 1790 and 1816 respectively. But it was a perplexing internal security task for the military attempting to maintain control between the two culturally alien populations, which often intermingled both on the borders and hinterland of settled areas. Apart from a predilection by the military to favour their fellow countrymen, the granting of land to both officers and men would have created a conflict of interest in providing impartial protection to the Aboriginal populations. Macquarie's endeavours to establish a Native Institute for children and later a 10,000 acre reserve 'in a fertile Tract' for the Aborigines did not solve the problem. Unfortunately, the pattern of land development established in the early colonial period continued as pastoral properties spread throughout the country. The legacy of this acquisition of Aboriginal land remains a divisive issue and a matter of great concern in Australia.

Another problem with worrying overtones to both internal, and to a lesser extent, external security, was the process of raising, and more particularly reinforcing, the New South Wales Corps. As an alternative to the marine battalion which had been specifically enlisted for a three year tour of duty, it was considered preferable not to replace the marines with a line regiment which, in due course, would be reposted elsewhere. Raising a special unit of infantry to remain in the colony, offered administrative simplicity and financial saving in avoiding the rotation of regiments. Unfortunately with no *esprit de corps* founded on regimental tradition, and with no honour and glory to be gained in acting as gaolers in a remote convict settlement, the Corps faced difficulties in attracting recruits. The difficulty was greater as the Corps was attempting to enlist men at a time when even well known regiments faced recruiting problems.

In contrast to the soldiers, the initial officer volunteers appear to have been of average quality, for with the exception of their commander, and the newly appointed ensigns, they were all serving on full duty. This was in a period of post-war financial stringencies following the American War of Independence, when many of their fellow officers were on half-pay. On being accepted and posted to the Corps, the officers also benefited from a step up in rank without purchase. However, with the purchase system normally determining rank amongst the army officer class, many officers considered the profession of arms a business rather than a vocation. The newly promoted Lieutenant John Macarthur was typical of this type of officer, and before he left England, was looking past his windfall promotion to the possibility of making money in the colony by exploiting non-military opportunities.

Remote from the Horse Guards, the Corps' weak commanding officer, Major Grose, allowed illegal trading by the military officers. Monopolistic trading, coupled with land grants and other indulgences, produced substantial profits for the officers. Their determination to defend these privileges brought them into conflict with the naval governors after Phillip, who attempted to curtail these abuses. Incidents such as the duel fought between Paterson and Macarthur and later the circumstances surrounding Macarthur being sent back to England under arrest, were unfortunate and poor examples to the troops. This was the atmosphere in which a struggle for supremacy between the civil and military powers became entrenched and was the background to the insurrection against Bligh in 1808.

From the outset the military force on which the civil power in the colony had to depend for security, was not only a raw unit without a tradition of service, but in relation to the soldiers, possibly of a lesser calibre than that amongst line regiments. While it is possible to theorise on the standard of soldiers in the Corps' early period of service, in the trying circumstances of guarding convicts at sea on the Second and Third Fleets, all ranks performed creditably in a still experimental system of transportation. Additionally, in the colony, and serving alongside marines, no complaints about the Corps' behaviour or discipline have been noted. Phillip would not have hesitated to record his displeasure had he cause to do so. It is therefore notable (as discussed in Chapter 8) that his successor Hunter reported adversely to London in 1796:-

Soldiers from the Savoy [London's notorious military prison], and other characters who have been considered as disgraceful to every other regiment in his Majesty's service, have been thought fit and proper recruits for the New South Wales Corps ... to which the dregs and refuse of our native country are directed by its laws to be sent as a punishment

The basis of this report was that from the time of France's declaration of war against the United Kingdom in February 1793, there was a noticeable lowering in the calibre of the Corps' officers and men. Wartime regiments soaked up the small available recruiting pool, mainly men who for a variety of misfortunes were forced to enlist. The Corps, which retained all its peacetime unattractive features for a potential recruit, would have been at the bottom of a competitive recruiting ladder. Yet the Horse Guards had to meet the continuing demands of the Home Office, requiring a flow of soldiers into the Corps for guard detachments on convict transports outward bound from England and Ireland. These factors go far to explain Hunter's critical, and accurate, report on the quality of many reinforcements posted to the Corps. For example, in 1796, the year in which Hunter wrote his adverse comments there were an estimated twenty-four soldiers in the colony who had been forcefully "recruited" from the notorious Savoy military prison. Additionally, other unsuitable soldiers, the 'dregs and refuse' of their regiments, were transferred to the Corps. A capable commanding officer, supported by sound regimental officers could have absorbed and disciplined such a steady influx. However, Grose and his successor Paterson, were apparently weak disciplinarians, while simultaneously many of the Corps' officers were distracted from their duties by their money-making pursuits. As a result, the efficiency with which the Corps carried out internal security tasks suffered.

Two incidents which emphasise the weaknesses of the officers and men of the Corps, were the loss of the *Lady Shore* in 1797 and the circumstances surrounding the wrecking of an ex-convict's home in 1796. While the successful pirating of the *Lady Shore* was the direct result of forcefully enlisted non-commissioned officers and men mutinying, it is argued that this would not have taken place except for the dilatory way in which Lieutenant Colonel Grose investigated complaints by the ship's captain before his vessel left home waters. Basically, this was because the guard commander, the newly commissioned (in

March 1797) Adjutant Minchin, had shown himself to be incompetent as a commander. Grose took no interest in any corrective action. Once at sea, Minchin's incompetency provided opportunity for the mutineers, and his apparent lack of determination resulted in a failure to immediately attempt to retake the ship. Frenchmen and other foreigners forcibly recruited in the Corps were the leaders and members of the *coup*. Prior to the successful mutiny, Minchin's failure to heed the warnings of a woman convict about their intentions, was reprehensible. Officer inefficiency, and forced enlistments into the Corps, resulted in the loss of the *Lady Shore*.

With the captured *Lady Shore* being sailed to an enemy port in Spanish South America, the external security aspects of the incident are clear. Regarding internal security in the colony, the implications were serious, with the successful mutiny indicating a level of disloyalty amongst some soldiers in the colony, who may side with the convicts in a major disturbance. Indeed in an Irish convict plan of 1800, the ringleaders were counting on the support of disaffected naval ratings, as well as soldiers who it was hoped would obtain a cannon to help defend an area around South Head until the insurgents obtained a ship to escape. While this plan contained a considerable element of wishful thinking, it indicates that there was a perception in the colony of troop disloyalty.

In the case of the ex-convict's home, publicly destroyed by soldiers acting as an uncontrolled riotous mob, Governor Hunter was shown to be irresolute. In the face of difficulties with the Corps' officers, he capitulated to Macarthur's appeal not to severely punish the ringleaders as he had publicly undertaken to do. Also, when the officers, with Macarthur as their spokesman, obstructed the course of civil justice being pursued by Magistrate Balmain, Hunter, aware of the circumstances, did not intervene. Further, Captain Paterson, administering command of the Corps, failed to display leadership by allowing Macarthur to usurp his position in discussions with Hunter. After Hunter deferred to Macarthur, and in furtherance of Hunter's mildly expressed hope that 'the men might be paraded and spoken to by their officers', there is no evidence that Paterson took any military disciplinary action. The success of the military officers in imposing their will on Hunter, represented a high water mark for them in their struggle against the civil power.

This unsettled situation may well have been exploited by the convicts to the detriment of internal security. That this view is soundly based is indicated by the 1797 reprimand of the governor by the Duke of Portland, who wrote that the conduct of the military directly endangered the safety of Hunter's government as there was no justifiable excuse for not bringing the ringleaders to a court martial and severely punishing them. Nevertheless, in the one case where the Corps was put to the test, at the time of the Castle Hill Rebellion in 1804, the troops involved carried out their duties satisfactorily. But this was a comparatively minor skirmish against a poorly armed untrained mob, and should not be held as an example of any high standards achieved by the Corps.

A contributing factor to the 1804 rebellion was an apparently unrelated issue associated with international affairs. With successful negotiations between Britain and France leading to the Peace of Amiens in March 1802, the strength of infantry units of the British Army, including the New South Wales Corps, was reduced. The number of all ranks stationed on mainland Australia dropped from 547 in December 1802 to 399 at the time of the rebellion in March 1804, while at the same time the number of radicalised Irish convicts arriving in the colony was increasing. This reduction in troop strength resulted in an army detachment being withdrawn from Castle Hill, which was to become the centre of the rebellion. A free settler wrote of his surprise that while there were fifteen hundred or more prisoners, there was no military guard at the time of the uprising. As the Castle Hill Rebellion was not a spontaneous uprising, it is reasonable to speculate that the reduction in strength of the Corps, especially with no troops stationed at Castle Hill, was a factor in the decision to launch the insurrection.

While demonstrating many weaknesses, the Corps' historical notoriety was secured by one event, the insurrection against Bligh when that unit, responsible under law to protect the civil power, rebelled on 26 January 1808. Many eminent scholars have written differing interpretations of the cause, or causes, of this insurrection, but it is worth bearing in mind the result of Governor Macquarie's contemporary investigation of this mutiny. Despite having no personal respect for Bligh, he reported to London that he had not been able to discover any 'Act' of

Bligh's which could in any way offer an excuse for the mutinous conduct of the Corps. So despite a wide range of reasons advanced by Major Johnston in his first dispatch to London, and by witnesses at Johnston's court martial in 1811, as well as by later writers, as to the cause of the mutiny, the episode can still be interpreted variously.

While the catalyst for the rebellion was Macarthur's manipulation of the criminal court which he faced on 25 January 1808, the cause was the realisation by the Corps' officers and men that Bligh intended to lay a capital charge of treason against the six officers who demanded the trial judge-advocate be replaced. This intelligence brought the injured Johnston hurrying back into town on the afternoon of 26 January 1808. It is reasonable to assume that the whole unit was watching the unfolding sequence of events with great attention and concern. Men such as Sergeant Major Whittle and, although the accused, retired army officer Macarthur together with their military and civil supporters, would have been working to stir up sympathy for the six officers and for Macarthur himself. With unit loyalty, and *esprit de corps*, developed over the years in the colony, the soldiers would have resented the perceived "unfair" treatment of their six officers. While the men's attitude was probably relatively straightforward, a more complex motivation is considered probable for the remaining officers in Sydney. They would have felt obliged to show solidarity with their six threatened comrades, such an attitude would have been reinforced by the perception that a succession of naval governors had endeavoured to restrict the rights and privileges the army officers had enjoyed from the days when Grose and Paterson administered the colony. Additionally, they were probably already inflamed by Bligh's well known dislike of the Corps and the "injustices" claimed to have been inflicted under Bligh's administration - many listed as causes of the rebellion in Johnston's London dispatch. But while it is clear that these grievances inflamed the situation, they were not the primary cause of the mutiny.

During the crisis Johnston had been derelict in his responsibilities by deliberately avoiding opportunities to discuss with Bligh a method to resolve the impasse. Unaware of Bligh's precise intentions late on the afternoon of 26 January, Johnston's actions were not commendable and demonstrated a degree of

irrationality as they were influenced exclusively by the advice and prejudices of individuals strongly opposed to Bligh. Yet, it is argued that in risking the possibility of being charged with a capital offence, Johnston, encouraged by those around him, decided to mutiny to defend the interests of the Corps which he saw as being put into jeopardy by Bligh's intention to charge the six officers who were opposing the governor's instructions. While there was majority support amongst all ranks in the Corps to confront Bligh, as noted in A Atkinson's 'William Bligh's Chickens', there were dissenters amongst the other ranks. However, this minority would not have had an opportunity to air their concerns, and doubtless would not have dared to, when the troops were ordered out on parade prior to being marched to Government House. For all ranks, any order by their commander was an order which had to be obeyed, and as commander, Johnston apparently considered his men supported him in his determination to depose Bligh. It is argued that the greater majority of all ranks of the Corps' were not prepared to see their regiment denigrated by Bligh, and marched in the belief that insurrection was necessary to protect vital regimental interests.

The 1808 insurrection was the culmination of a struggle by the military to stamp their supremacy on the civil administration. A confrontation, which in various forms, had been continuous from the time the marine officers first disputed the order that they form the criminal court. The appointment of an army officer as governor, who wore the same 'cloth' as the garrison, and whose arrival accompanied by the 73rd Regiment to replace the Corps, was seen by the War Office as a way of putting the colony 'on a more respectable footing'. Nevertheless tensions developed between Macquarie and the 73rd, and their replacement the 46th Regiment, leading to the governor requesting that both, in turn, be removed from the colony. The disruptive influence of quarrels, such as that between Macquarie, his former old comrade Lieutenant Colonel Molle of the 46th, and a clique of officers, would have disrupted the efficiency of the regiment and consequently its conduct of security duties. While confronting this internal dissent the governor faced two security issues; the serious situation regarding bushranging, and of lesser gravity, the confrontation (discussed earlier) between whites and Aborigines.

Following the Napoleonic Wars, when post-war economies dictated there be no increase in strength of the army forces in the colony, at the same time depressed socio-economic conditions in England led to an increase in convict transportation. This increased pressure saw more convicts "bolting" and surviving by bushranging. Van Diemen's Land was particularly vulnerable where, to ease starvation rations, armed convicts were ordered to hunt kangaroo, encouraging a spirit of bushranging in the island. Meanwhile, in the United Kingdom, increasing numbers of redundant experienced servicemen were convicted of offences and transported to the colony. Bushranging ex-servicemen were formidable opponents for the security forces ordered to hunt them down. Additionally, some of the most intimidating bushrangers were regular soldiers who deserted while serving in the colony. In Van Diemen's Land, Peter Geary of the 73rd, was one who became leader of a notorious gang. Despite Macquarie's proclamations and optimistic dispatches to London, bushranging continued. Even with Lieutenant-Governor Davey's illegal, but sensible, declaration of martial law, and then Lieutenant-Governor Sorell's carefully planned counter-measures, this scourge continued through to the administration of Sorell's successor, Colonel George Arthur.

From its inception external security in the colony had two distinct phases, the wartime and post-war periods. Apart from the short lived Peace of Amiens during 1802-1803, the British Empire was at war from 1793 to 1815. Initially this appears to have caused little concern in the colony, until Governor King became particularly concerned over French intentions with Captain Nicolas Baudin's expedition in Australian waters. He considered the greatest area of threat was in the region of newly discovered Bass Strait, where Britain's claim to sovereignty could be thrown into doubt. As a result the outpost at Risdon Cove was established, with London also deciding on a settlement at Port Phillip, to prevent that strategically placed port being claimed by the French. Therefore, external threat had the direct result of sovereignty being confirmed by settlement over southern parts of the eastern seaboard previously claimed by Britain in the proclamation of Phillip's Commission. It would appear that apart from taking these precautions to protect British sovereignty, the New South Wales authorities were not particularly concerned about warlike threats during the French Revolutionary and Napoleonic Wars. In the same way as the War of American Independence inhibited

exploration around coastal Australia, from 1793, war deflected European interest away from the strategically unimportant Australian continent. Prior to the Battle of Trafalgar in 1805, the Royal Navy was struggling to survive in its battle for naval parity, but thereafter, it was better able to act as the world wide shield for Britain's possessions. This shield was seldom seen, but was none the less real. From this early colonial period, it is asserted that a persistent belief developed that the British navy guaranteed external security for the continent.

When peace was declared in 1815, British sovereignty in Australia was still restricted to the original boundaries proclaimed for New South Wales. There had been no imperative to extend sovereignty to protect expanding settlement for, apart from Van Diemen's Land, this was limited to the coastal and Hunter regions until the road over the Blue Mountains was opened in 1815. Thereafter, except for outposts established for reasons of external security, settlement did not precede the post-war spread of British sovereignty. This is demonstrated by the October 1829 order which limited mainland settlement to nineteen counties, all within a radius of about 150 miles of Sydney. Yet, five months before the signing of this order, for reasons of external security, the British had already claimed, and started to exercise sovereignty over the complete continent. This resulted from threats to British trade by the Dutch which led to the first outpost being established in northern regions of the continent in 1824. Meanwhile, French "scientific" expeditions had been resumed around coastal Australia. The increasing concern about these expeditions, not only led to the strengthening of shore batteries at Sydney and Hobart, but also London ordered that vulnerable uncolonised coastal regions be secured. As a result, in 1826, strategically placed outposts were established by Governor Darling at Westernport and King George's Sound. The process of claiming sovereignty over the entire continent was completed in 1829, when Captain Fremantle declared New Holland a British possession, at the site subsequently named after him. Only a few months later, this sovereignty was demonstrated when an approved commercially driven settlement was established on the Swan River.

Both during and after the wars, outposts which developed into settlements, such as in Van Diemen's Land, or settlements like the Swan River, were established primarily as a result of external security concerns. Compared to other land masses,

such as India and northern America, where traders and settlers preceded the British flag, the reverse applied in Australia. The legacy of this continuing search for external security since 1788, is that the entire Australian continent came under British sovereignty. This took place despite tribulations, including near starvation, convict rebellion and insurrection, with the garrison maintaining that level of internal security which enabled development to proceed in the colony. The parallel evolution of the supremacy of the civil power over the military, together with the Bigge recommendations, ending autocratic rule after Macquarie's departure. These were initial steps in laying the framework for the development of modern constitutional government in the former penal colonies.

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